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FIFTH REPORT
OF THE
Record Commissioners.



1880.

SECOND EDITION.

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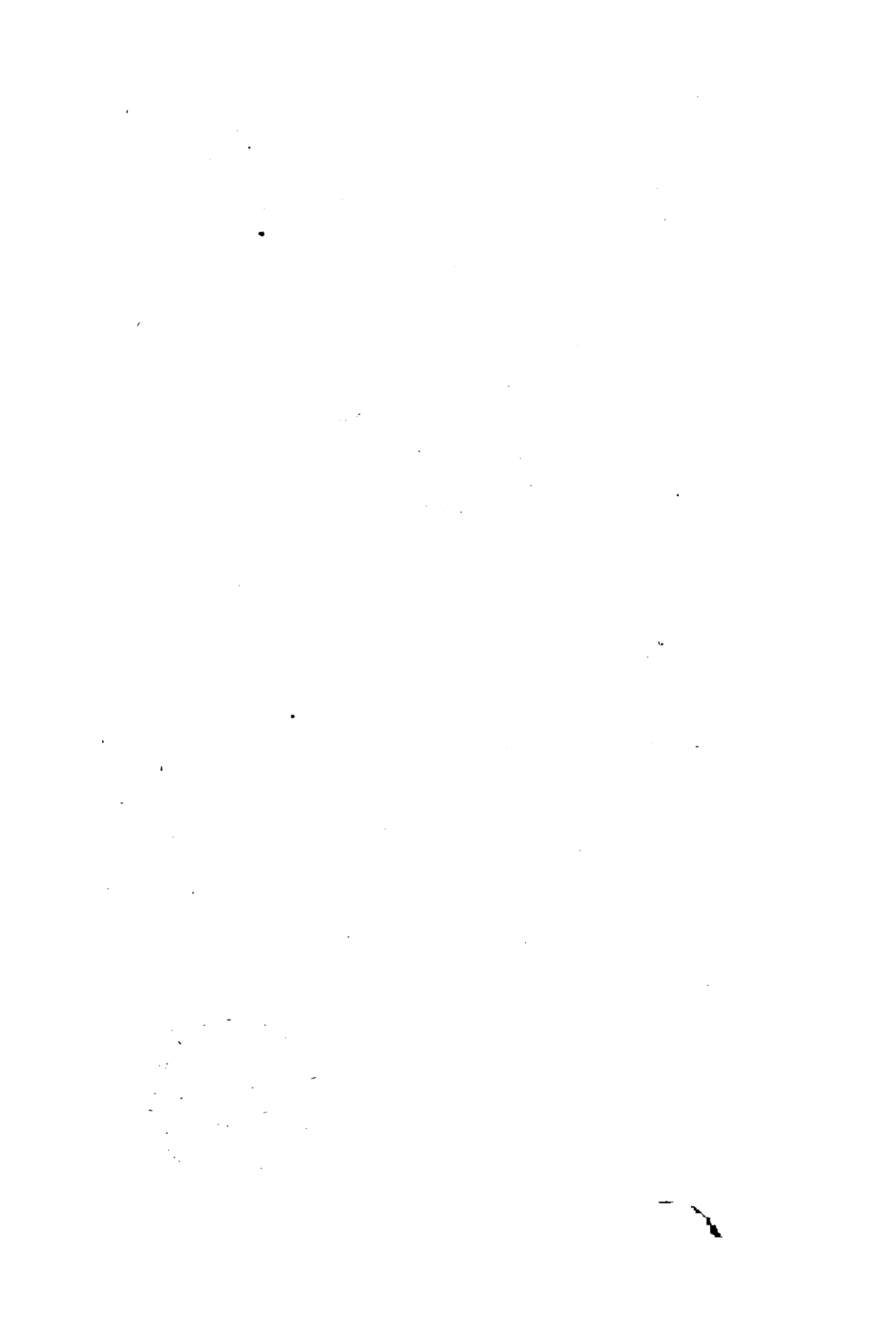
FIFTH REPORT
OF THE
RECORD COMMISSIONERS.

1880.

SECOND EDITION.



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PREFACE TO SECOND EDITION.

In republishing their Fifth Report, the Record Commissioners desire to renew the caution that this volume is to be regarded as a collection of valuable and interesting essays, for the correctness of which the reputation of the writer must be the guaranty. The opinions of the author were stated with the utmost frankness, the articles were printed in one of the best known journals of the day, and the authorship was acknowledged from the commencement. In reprinting them, however, neither the city nor its agents are to be considered as endorsing the opinions of the author, or as dissenting from them. In one particular case, the seventy-eighth article, the Record Commissioners have cancelled one essay, which appeared in the former edition, from a scrupulous care to respect the sensibilities of those who felt aggrieved by Mr. Bowditch's remarks.

One article, marked 2*, of the series, which was overlooked in the first edition, has been recovered for this issue. Some errors of the press have been corrected, and the appearance of the volume has been improved by additional spacing. A few more notes are given, and the number of pages is increased from a hundred and eighty in the first edition, to two hundred and twenty-two pages in this, though the contents remain the same, with the exceptions above noted.

The Record Commissioners avail of this occasion to renew their expressed conviction of the great value of these contributions to our local history, and to record the flattering appreciation with which this volume has been received by our citizens.

WILLIAM H. WHITMORE,
WILLIAM S. APPLETON,
Record Commissioners.

CITY HALL, BOSTON, July, 1884.



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PREFACE TO THE FIRST^C EDITION.

Boston, Dec. 10, 1880.

In their fourth report, dated Sept. 1, 1880, the Record Commissioners announced that the City Council had appropriated the sum of five thousand dollars for the publication of historical documents relating to Boston. This was in conformity with a suggestion of the Committee on Printing for 1879, and it is presumed that the grant will be continued annually. As already announced, the first of the volumes thus ordered is the present fifth report, and it contains a series of articles relating to the history of estates lying on or around Beacon Hill. These articles were contributed in 1855 to the "Boston Daily Transcript," by the late Nathaniel Ingersoll Bowditch, under the signature of "Gleaner."

Mr. Bowditch was confessedly the most learned conveyancer of the day. He was born at Salem, June 17, 1805, and was the oldest child of Dr. Nathaniel Bowditch, the distinguished mathematician. In 1823, the year following the graduation of the subject of this sketch, his father removed to Boston, and Nathaniel studied law under the late Hon. William Prescott. From this time until his death, April 16, 1861, Mr. Bowditch was an honored and useful citizen of Boston, pursuing his chosen department of practice with unrivalled skill, and accumulating treasures of information, of which but a small portion is here shown. In 1851 he printed a "History of the Massachusetts General Hospital," and in 1857 a collection of curious facts entitled "Suffolk Surnames." The latter volume has been twice reprinted.

In 1855 Mr. Bowditch began the interesting series of "Gleaner" articles, which aroused a lively interest among all conversant with the subject. Often a single article would call forth the reminiscences or comments of other writers, and the whole collection has been for years regarded as indis-

pensable to any one who would write on that portion of our local history.

Although the series terminated abruptly in the manner explained on page 180 of this volume, enough had been written by Mr. Bowditch to make its republication a matter of public interest. When, therefore, the Record Commissioners received the munificent grant of the city, they at once selected these "Gleanings" as among the first documents to be issued.

It will be seen that the portion of our territory covered by these notes is small; but the articles are consecutive, and the treatment is exhaustive. Beacon Hill and its surroundings are considered, every estate is scrutinized, and the proverbial dryness of antiquarian and legal discussions is relieved by anecdotes of the distinguished citizens who have lived upon this noted territory during the past two hundred years.

It has seemed unnecessary to attempt annotations to the original work. Of course the twenty-five years which have elapsed have produced many changes; but these matters are within the recollection of the present generation, which is now to reperuse these sketches.

The consent of the representatives of the family to this reproduction was given a number of years ago, and has been renewed at the present time.

The commissioners have to announce that their sixth report is nearly completed, and that it will contain the Roxbury Land Records, together with the records of the First Church in Roxbury. It is intended that it shall appear among the city documents for 1880.

Respectfully submitted,

WILLIAM H. WHITMORE,

WILLIAM S. APPLETON,

Record Commissioners.

"GLEANER" ARTICLES.

I.

HISTORICAL.

July 2, 1855.

It is well known that when our forefathers first came to this peninsula they found here a solitary settler, — Mr. William Blackstone. Thus the Charlestown records say: —

Mr. Blackstone, dwelling on the other side of Charles River, alone, to a place by the Indians called Shawmutt, where he only had a cottage at or *not far off* the place called *Blackstone's Point*, he came and acquainted the Governor of an excellent *Spring* there, withal inviting him and soliciting him thither. Whereupon, after the death of Mr. Johnson and divers others, the Governor, with Mr. Wilson, and the greatest part of the Church, removed thither. Whither also the frame of the Governor's house was carried, when people began to build their houses against winter, and this place was called Boston.

Mr. Drake, in his excellent "History of Boston," quotes this extract, and remarks that "this place was not thought of for a town until Blackstone urged it." He thinks that Blackstone's Point was that afterwards called Barton's Point, at the northerly end of Leverett street, towards Charlestown, and adds: "His *Point* is more easily located than his *house* or his *spring*," and proceeds to suggest as not unlikely that these may have been near Poplar street.

Now, the exact location of Mr. Blackstone's homestead lot is as definitely fixed as that of the Mill-dam or Western avenue. He made a deed to the inhabitants of the whole peninsula, retaining this homestead lot of six acres. By the town records of 1735, "the release of Mr. Blackstone, the first proprietor of the town of Boston," is mentioned as "now on file in the town clerk's office." The original, however, has never been seen by either of the historians of Boston, — Shaw, Snow, or Drake, — and is doubtless lost. Blackstone, wishing to live a more retired life and amid fewer neighbors,

subsequently sold this reserved lot; but no deed from him is found on record. In the course of time, therefore, its precise location became doubtful. It was, however, accidentally discovered by an investigation of my own. In May, 1829, I was examining the titles of the Mt. Vernon proprietors, claimed under John Singleton Copley, the celebrated artist. I succeeded in tracing back his lot in part to a deed from one *Richard Peyps* and Mary his wife, of Ashon, Essex County, to Nathaniel Williams, by a deed not found on record, but expressly referred to as dated January 30, 1655; and a deposition of Anne Pollard, in 1711 (Suffolk, Lib. 26, p. 84), proves that Blackstone sold to Richard Pepys. In 1676 is recorded a deed of Peter Bracket and Mary his wife, late widow of said Williams (Suffolk, Lib. 9, fol. 325), conveying to her children, Nathaniel Williams three-quarters and Mary Viall one-quarter — all that messuage, with the barns, stables, orchards, gardens, and also that *six acres* of land, be it more or less, adjoining and belonging to said messuage, *called the Blackstone lot, being the same which were conveyed to said Nathaniel by Richard Pepis, of Ashon, Essex County, and Mary his wife, as by their act, bearing date January 30, 1655, will more fully appear.*

Mary Viall's one-quarter gets into said Nathaniel, who conveys the whole lot in 1709 (Suffolk, Lib. 24, f. 103) to Thomas Banister as "an orchard and pasture, containing *six acres* more or less on the N.W. side of the common with the flats; the upland and flats being bounded *N. W. on Charles river* or a cove," etc., etc., "Southerly on the Common."

Blackstone's six-acre lot, therefore, was at the lower part of the south-westerly slope of Beacon Hill, or, according to the present monuments, it was *at the bottom of Beacon street, bounded southerly toward the Common, and westerly on the river.* In other words, his fine taste led him, at the outset, to select for his abode the precise spot which is now the "Court-end" of the city. It must have been a sheltered and sunny enclosure of almost unrivalled beauty. Charles street was, in 1804, laid out along the water's edge, and, in the cellar of one of the houses easterly of that street (set off to the late B. Joy, one of the Mt. Vernon proprietors), is a copious spring, which was doubtless Mr. Blackstone's. Shaw, in his description of Boston, p. 103, says: "Blackstone's spring is yet to be seen [1800] on the *westerly* part of the town, *near the bay which divides Boston from Cambridge.*"

I felt as proud of my delivery as a hen does that has laid an egg; and it was the subject of much *cackling* on my part. An

account of it will be found in the "Boston Courier" of that time. "The Sexton of the Old School" has also made it the subject of one of his later lucubrations in the "Transcript." *I had every reason, indeed, to believe that the public mind was forever enlightened on this momentous topic.* Judge, then, of my mortification, Mr. Editor, when I found the old erroneous surmises reproduced in a standard work by so careful and well-informed an antiquarian as Mr. Drake! — my "pet" discovery wholly ignored by the very man of all others who should have known everything about it! — my "credit" as clean gone as if I had been an original stockholder in the

"VERMONT CENTRAL."

July 3.

REV. WILLIAM BLACKSTONE. *Mr. Editor:* — I was highly pleased by the attempt of your ingenious correspondent in last evening's "Transcript," to fix the location of Rev. Wm. Blackstone's house and spring. This is a subject which, as is well known to some of your many intelligent readers, has for many years been one of more than mere curiosity with me. The conclusion, however, to which he has arrived, to his own satisfaction, is not altogether so to ours. Let us examine.

Mr. Blackstone sells land to Richard Pepys. In 1655, Pepys sells land to Nathaniel Williams. In 1676, Mary, widow of Williams, conveys to her children, Nathaniel and Mary, "a certain messuage," and "also that six acres of land *adjoining* and belonging to said messuage, called the "Blackstone lot." In 1709, Nathaniel Williams, jr., sells to Thomas Barrister "an orchard and pasture, containing six acres, more or less. All this is clear and admissible.

But it does not so clearly appear to us to be demonstrated that either Mr. Blackstone's house or his spring were on this land. Your correspondent says: "Blackstone's six-acre lot was on the south-western slope of Beacon street." Admit it; but that "six-acre lot" is described in the deed of 1709 as "an orchard and pasture." When Mr. Blackstone, in 1633, gave up his general claim to the township of Boston, fifty acres were reserved to him in severalty. (Snow's Boston, p. 50; Drake's Boston, p. 95.) The "six-acre lot" was no doubt *part* of that fifty acres; but what evidence have we been presented with to prove to us that either Mr. Blackstone's "small cottage" or the "excellent spring" was there? Might they not have been, as Mr. Drake and others think, at the other extremity of the fifty acres, a tract considerably larger than the whole of Boston Common? There we find "Blackstone's," now "Barton's Point"; there we find a spring beneath a house in Poplar street, in which Mr. Drake formerly lived; there we find "Spring street" and Spring-street court," which have been regarded as having been named in reference to "the excellent spring of fresh water." But there is no "point" on the "slope of Beacon street."

I have no favorite theory to support in this matter, and only seek the truth; but my long habits of historical research have induced me to be cautious in

drawing hasty conclusions from partial premises. Perhaps your intelligent correspondent can furnish us with something more definite and conclusive. Where are the deeds of the other forty-four acres? What if one of them refers to the precise locality?

ALONZO LEWIS.

HISTORICAL. *Mr. Editor*.—When I observe anything in your paper marked or “headed” *Historical*, I always read, or intend to read it; and read with avidity the article so marked in to-day’s (July 2d) “*Transcript*,” signed *Vermont Central*. This note is to call the attention of that writer to a single fact; premising by the way, that when I was a youngster I was often deceived by *cackling*; and that I am pleased with the tone of his article, and glad he has taken the pains to investigate so closely respecting the homestead of Mr. William Blackstone; but in his eagerness to show where Mr. Blackstone’s homestead was in 1655, it does not appear to have occurred to him that it *could* have been elsewhere in 1630. Now that this *was* the fact I am fully persuaded; for all the early indications at, and immediately after, the first settlement of Winthrop’s company on the Peninsula point to the locality of Mr. Blackstone where Mr. Drake has fixed it, so far as he has pretended to fix it. What Mr. Shaw says about Mr. Blackstone’s spring can, by no arguments that occur to me, be transferred from West Boston to the foot of Beacon street; for West Boston did not, in early times, include this locality, or certainly not generally. What was meant originally by West Boston was chiefly included between what is now Cambridge street and the Millpond and Barton’s Point. This name was naturally enough given to *that* section by the North End people. In process of time it extended to the hill on the southerly side of Cambridge street. Therefore, that Mr. William Blackstone lived, in 1630, in the vicinity of his spring on Poplar street, is the deliberate opinion of

URBS CONDITA.

II.

HISTORICAL.

July 6, 1855.

MR. EDITOR:—Being at present confined to my house I am unable to refer to certain abstracts of my own, which I well remember, especially a deposition of Odlin, etc. Mr. Drake's history, however (p. 530), supplies me with all I want, and proves, as I think, conclusively that *Blackstone's Point was the six-acre lot which he reserved, and that his house stood on part of it*. Mr. Drake speaks of the four depositions, in 1684, of John Odlin, Robert Walker, Francis Hudson, and William Lytherland, and he represents them as saying that they had —

Dwelt in Boston from the first planting thereof, and continuing so at this day (June 10, 1684); *that in or about 1634 the said inhabitants of Boston (of whom the Hon. John Winthrop, Esq., Governor of the Colony, was chief) did agree with Mr. William Blackstone for the purchase of his estate and right in any lands lying within the said neck called Boston; and for said purchase agree that every householder should pay 6s., none paying less, some considerably more, which was collected and paid to Mr. Blackstone to his full satisfaction for his whole right, reserving only about six acres on the point commonly called Blackstone's Point on part whereof his then dwelling house stood; after which purchase the town laid out a place for a training field, which ever since and now is used for that purpose and for the feeding of cattle.*

Now, to my apprehension, nothing can make the matter clearer than the above extract from Mr. Drake's own history. If it had been printed in the part of the volume where his surmises are made in favor of Barton's Point, he could not, as it seems to me, have failed to be himself convinced of his mistake. The *Common* (which contains about 50 acres) was very probably the *residue of the 50 acres* which had previously been granted to Mr. Blackstone, and which thus became revested in the town.

One word of reply to Mr. Alonzo Lewis. Mr. Blackstone's *cottage* was doubtless a slight structure, and in 1709 had disappeared; but the *trees* which he had planted had grown, and were

an orchard, which of itself becomes a conspicuous *monument*, — *since it is the only orchard shown on the most ancient plans of Boston*. That there were numerous other *springs* I admit. That there was an excellent spring on this spot so near the original shore that the fresh water bubbled forth and ran down the sand to sea, I was assured by an aged witness, now deceased, who was consulted as to the titles in that locality in the suits of the Overseers of the Poor against the Mount Vernon Proprietors.

SUMMARY.

Edward Johnson, in 1630, in his "Wonder-Working Providence," writes: "One [on] the South side of the River, one a Point of Land called Blaxton's Point, *planted* Mr. William Blaxton."

The Records show that "1 April, 1633, it is agreed that Mr. William Blackstone shall have fifty acres set out for him *near his house* in Boston to enjoy forever."

Blackstone sold the town, the following year, all said allotment except six acres, *on part of which his then house stood* — the sale not being restricted to the 44 acres, but including all his right in the peninsula. He received £30, raised by a town vote assessed Nov. 10, 1634.

The deposition of Odlin, etc., is a well-known historical document, which has often been printed in extenso.

Blackstone probably removed from Boston in 1635. It is, at any rate, certain from a publication in 1641 that he had removed before that year. See Savage's Winthrop. Annie Pollard proves that he sold his reserved six acres to Richard Pepys. This six-acre lot, "commonly called the Blackstone lot," is traced from Pepys to 1655, through Williams, to Banister, 1709, and through Copley to the Mount Vernon Proprietors — and *it bounds S. on the Common, W. on the River*.

Now, as to the *orchard* planted by Blackstone. In a publication of 1765 it is stated that many of the trees still bore fruit. Bonner's plan of 1722, though it has no division lines marking the bounds of the Common, has an arrangement of trees in rows, *i.e.*, an *orchard*, obviously in this locality. This orchard reappears in Price's plan of 1733. Who can doubt that it was Blackstone's, Pepys', Williams', Copley's *orchard*?

As to there being no *Point* at the foot of Beacon hill — all Boston has been called in print "Blackstone's Neck," and the name of

Blackstone's *Point* may have been given to that projecting part of Boston which was *nearest* to his house. It is, however, a mere question of *nomenclature*, and does not at all affect the question of where Blackstone *actually lived*. Besides, no one can know that there was not some such projection of the original shore at the foot of Beacon hill as might with propriety be called a *point*. The whole space at the bottom of the Common, now used as a parade ground, and of which the level has been greatly raised within a few years, was doubtless at that time a mere marsh or beach, occasionally, if not always, covered by the full tides. If so the shore must have made a decided bend or sweep towards the east, immediately in front of Mr. Blackstone's homestead lot. In other words, there must have been a *point* thus formed. On the whole, I think the "point" is "settled" where Blackstone *settled*, and feel safe in changing my signature to

Q. E. D.

HISTORICAL. *Mr. Editor*: — Your correspondent, "Vermont Central," otherwise "Q. E. D.," has expended much labor and many words to prove, what no one has called in question — what I admitted in my first article — and what I published, with much more, some twenty years ago. The question is not where Mr. Blackstone's "*then* dwelling-house stood, in 1634," but where did his "small cottage" stand in 1623, eleven years previous? This question has not been answered, much less "demonstrated."

ALONZO LEWIS.

II.*

July 9, 1855.¹

MR. BLACKSTONE, LIKE "MONSIEUR TONSON," IS COME AGAIN. *Mr. Editor*:—Duly appreciating the courtesy of Mr. Alonzo Lewis, who recognizes the "much labor and many words" which I have expended in trying to convince him, I can only express my regret at having wholly failed in my object. He avows himself an entire sceptic as to the "whereabouts" of Mr. Blackstone's "small cottage" in 1623. I might, perhaps, suggest that at that time it was "nowhere." At any rate, as we can hardly hope for much light as to its exact location from *Indian* traditions or contemporary *Plymouth* annals, I think we may rest satisfied if we can ascertain where it was when *Boston* first began to exist,—in the year of "*Urbs Condita*," or A.D. 1630. Mr. Lewis admits the fact as stated and proved by me, that Mr. Blackstone's house, in 1634, and the six-acre lot on which it *then* stood, were at the north-west corner of the Common. It may be that "some twenty years ago," *he*, as he states, somewhere published the same "and much more." It is certain, however, that Mr. Drake has not done so in his "*History of Boston*," a circumstance which induced me to write my first article.

In charging me with having failed to make out my case, Mr. Lewis virtually assures me of bearing a false name (Q. E. D.), and of having resorted to "false pretences"—of argument and demonstration. To an indictment of any sort I am aware that it is very unfortunate to be obliged to reply under two names; since he who resorts to an "alias" is almost always a rogue. But my original name ("Vermont Central") being, through the misconduct of a namesake, justly an object of much odium, I changed it. To prove that I did so "according to law," or, in other words, that I am *legally* entitled to my present name, I will NIB my pen and offer a suggestion or two.

The Charlestown records, as we have seen, speak of Mr. Blackstone as having "a cottage" at "Shawmutt" when, in 1630, he invited our ancestors to come across the river and settle there. So

¹This article was omitted in the first edition.—W. H. W.

that his "small cottage," whensoever built, appears to have been then extant. In 1633 the inhabitants of Boston set off to him 50 acres of land near "his house." They do not say "his *new* house," which would of course *prove* the existence of a prior structure, or "his *now* dwelling house," from which, possibly, though not necessarily, the same fact might be inferred. No one supposes that the first houses built here were of large size, with modern conveniences. All were at first "cottages." There is no reason, then, to doubt that the "cottage" of 1630 and the "house" of 1633 were one and the same. It can hardly be supposed, indeed, that *before* getting a grant from the town he would have proceeded to erect a second dwelling. But the deponents in 1684 testify that in 1634 he sold to the town all his land except six acres, on part of which his *then* dwelling house stood, and that the town afterwards proceeded to lay out the training field, or *Common*. Upon this little word "then" Mr. Lewis seems to take his stand. To his imagination it presents a *præexistent* dwelling house somewhere else. I am aware that a small word often varies extremely the meaning of a sentence. There is much virtue in an "if" or "but"; and "no" is a host of itself. But, by all obvious and natural rules of construction, this "then" merely proves a *non-existent* dwelling house. It is as if these deponents in 1684 had said, "Mr. Blackstone retained six acres, on which, fifty years ago, his *then* dwelling house stood, *which is now no longer standing*."

Snow, in his history, though he, too, like Drake, mislocates the six-acre lot as being probably at Barton's Point, does not intimate any theory of *duplicate* dwelling houses. He says: "Blackstone cultivated with success the *six acres* which he retained, and soon had a garden plot and an *orchard* near his *cottage* and *spring*." Until, then, I shall hear some good reason for believing that Mr. Blackstone built a "small cottage" in 1623 at Barton's Point, or elsewhere, and then another "house" in another place *before* any grant from the town to him, I shall feel entirely convinced that his "cottage" and his "house" were one and the same building — or that, if different buildings, they were, yet, both erected on the same *homestead lot, at the bottom of the Common*.

And for trial of this issue, on the evidence already presented, I submit myself to the "Transcript" and "my country."

Q. E. D.

July 11.

WILLIAM BLACKSTONE, HIS ORCHARD, COTTAGE AND SPRING.—I see a little discussion is going on — or off — I know not which — as to some of these things in your "Transcript." If you will look in your own band-box, you will find what seems to me quite as much to the purpose, and some things which may interest your inquiring friends. In 1849, March 14, 21, 28, April 4, 11, 18, 25, May 2 and 9, some industrious creature published in the "Transcript" nine consecutive numbers, all about William Blackstone, his orchard, cottage and spring. This writer's conclusions, so far as it was possible to form conclusions from such slender premises, seemed reasonable to me then, and they seem so now; and if those conclusions were errors, they were evidently not arrived at without labor. Numbers 7 and 8 of the series, published March 28 and April 4, relate entirely to the orchard, cottage and spring. As to the whereabouts of Mr. Blackstone's cottage in 1623, your friend Q. E. D. has hit the location exactly — it was "*nowhere*." Whoever has the courage to dive for that will do a public service, while he is down, by looking round for the old lady's cottage, W. B.'s grandmother's, about which nothing has yet been "*demonstrated*." Those who preserve the "Transcript" will find the whole subject, in the numbers referred to, treated at some length. The conclusions, as to the location, are the same with those at which Q. E. D. has arrived.

JOHN SMITH, THE ELDER.¹

¹ There is little to be added to the able argument of Mr. Bowditch, set forth in his two preceding articles, and afterwards fortified in his 67th article, later on.

A few facts have since been found which may be worth repeating. The depositions referred to are also here reprinted, as they are often cited, and are important items in our history.

Aug. 15, 1687. Judge Sewall wrote in his Diary (i, 186): "Went into Water alone at Blackstone's Point."

July 22, 1709. He wrote (Diary ii, 260): "In the evening Mr. Mayhew and I bath ourselves in Charles River behind Blackstone's point."

Snow (History of Boston, p. 427) says, "Mr. Blackstone's beach is incidentally mentioned in a latter part of the ancient records of the town than that referred to p. 51. [March 9, 1638.] His marriage also to Widow Sarah Stevenson, July 4, 1659, is recorded in its proper place. Gov. Endicote officiated on the occasion." As I have Snow's annotated copy, I find that this "later mention" is Feb. 27, 1643. The town records (vol. 2 of our Record Commissioners' Reports, p. 72) has the following entry under this date: "William Colboron and Jacob Eliot are appointed to view a parcel of Land towards Mr. Blackstone's Beach which Richard Peapes desires to Purchase of the Towne whither it may be conveniently sold unto him." In the Book of Possessions Pepys lot is not specifically recorded, but Jacob Leger, Robert Wing, and Jane Parker all abutted on his lot, and it is easy to show where it was. The date of said Book is now quite confidently assigned to A.D. 1645. — W. H. W.


[Suff. Deeds, Lib. 24, fol. 106.]

The Deposition of John Odlin aged about eighty two years, Robert Walker aged about seventy eight years, Francis Hudson aged about sixty six years, and William Lytherland aged about seventy six years, these Deponents being antient dwellers and

inhabitants of the Town of Boston in New Engl^d. from the time of the first planting and settling thereof and continuing so at this day do jointly testify and depose that in or about the year of our Lord one thousand six hundred thirty and four the then present inhabitants of said Town of Boston (of whom the hono^{ble}. John Winthrop Esq^r. Governour of the Colony was Chief) did treat and agree with M^r. William Blackstone for the purchase of his estate and right in any lands lying within the said Neck of land called Boston, and for said purchase agreed that every householder should pay six shillings, which was accordingly collected, none paying less, some considerable more, than six shillings, and the said sum collected was delivered and paid to M^r. Blackstone to his full content and satisfaction, in consideration whereof he sold unto the then inhabitants of s^d. Town and their heirs & assigns for ever, his whole right and interest in all & every of the lands lying within said Neck, reserving only unto himself about six acres of land on the point, commonly called Blackstone's Point, on part whereof his then dwelling house stood, after which purchase the Town laid out a place for a Training Field, which ever since and now is used for that purpose, and for the feeding of cattle. Robert Walker and William Lytherland further testify that M^r. Blackstone bought a stock of Cows with the money he received, as above, and removed and dwelt near Providence where he lived till the day of his death. Boston the 10th of June 1684. Then personally appeared John Odlin, Robert Walker, Francis Hudson and William Lytherland the four Deponents above named and made oath to this Deposition according to their respective testimony, before us. S. Bradstreet, Governour, Sam. Sewall, Assistant. February the 8th 1708 Received and accordingly entred and exam^d. p Addington Davenport Regist^r.

[Suff. Deeds, Lib. 26, fol. 84.]

The Deposition of Anne Pollard of Boston Widow aged about eighty-nine years.

This Deponent Testifyeth and saith, That this Deponents husband M^r. William Pollard occupied and improved a certain peice or parcel of land scituate near the bottom of the Common at the Westerly part thereof in Boston aforesaid and bounded on the sea south west for many years, and that her said husband hired the same of Richard Peepy's late of Boston aforesaid Gen^l. deceased who often told this Deponent, That he the said Peepy's bought the said land of M^r. Blackstone, Clerk, formerly of Boston aforesaid, And further this Deponent saith, That the said Peepy's built a house thereon wherein this Deponent and her said husband dwelt for near fourteen years, during which time the said Blackstone used frequently to resort thereto, and this Deponent never heard any controversy between him the said Blackstone and the said Peepy's about the said land, but that the same was always reputed to belong to him as this Deponent understood, And she further says, That soon after the sale thereof as she supposeth the said Blackstone removed from this Town of Boston, and further saith not. Anne Pollard  Signum. Boston, December 26th 1711. Jurat et Capt in Perpetuam rei memoriam die et anno prædict, Cor nobis, Jer. Dummer, Addington Davenport, Just. Pacis unus Quor. December the 26th 1711. Received and accordingly entred and examined. P. Addington Davenport Regist^r.

III.

ANCIENT ITEMS.

July 10, 1855.

In 1676, after King Philip's war, Dr. Increase Mather, of Boston, "did by his letters procure a whole ship-load of provisions from the charity of his friends in Dublin." So that when Boston sent, by R. B. Forbes, Esq., a ship-load of provisions to Ireland, a few years since, it was but the payment, without interest, of a debt contracted by our forefathers a century and three-quarters before. The debt is mentioned by Drake, but not its somewhat tardy discharge. Mr. Drake, in each page of his history, has, in the notes, preserved copies of the miscellaneous votes passed by the town in each year, these being generally of too trivial a character to justify an insertion in the text. Thus, under the year 1640, the following vote is recorded as passed March 30, viz.: "*Ordered*, That no more land be granted in the Town out of the open ground or common field, which is left between Sentry Hill and Mr. Colbron's end, except 3 or 4 lots to make up the street from bro. Robt. Walker's to the Round Marsh." On this vote he makes not a word of comment, and yet it was the origin of the Boston Common. Sentry Hill was Beacon Hill. Mr. Colbron's end or field extended from Washington street back along Pleasant street and the water, and the street referred to is Boylston street. The Common originally reached to Tremont House, and indeed the little flower-garden at the S.E. corner was granted more than 190 years ago as a house-plat, out of that end of the Common. Rather a small-sized house-lot, by the way! The granary and workhouse were erected where the Park-street Church and houses now stand, the street leading by them having been called Sentry street. The Common originally extended to Mason street; and the whole Colonnade Row block of houses was built on land sold off from it. On the other hand, its original dimensions were enlarged in 1780, by a purchase, from William Foster, of about two acres on Boylston street, east of the burying-ground, and between it and Tremont street. The Public Garden, was, and as I conceive still is, part of the Common, though

divided from it by Charles street about 1804. Surely a vote to which Boston is indebted for this beautiful public pleasure-ground should have received from its historian at least one sentence of mention in his text.

Mr. Drake does indeed mention in his text that on March 31, 1645, "there was purchased of Thomas Scotto for the use of the Town his dwelling-house, yard, and garden, for fifty-five pounds. [Cheap.] It was bounded on the north by land of Henry Messenger, on the east by Mr. Richard Hutchinson's, by the Common street south, and the burying-place west." But it would not have been amiss if he had added that this is the School-street estate, on which now stands the City Hall. Between this School-street land and the city land on Court street, on which formerly stood the prison and now stands the Court House, were intervening lots of Henry Messenger, etc., which have been subsequently acquired, so that the two estates are now united. And it would seem that of the original School-street land portions were subsequently sold off, on which were erected the brick buildings owned by the late John Lowell, Wm. Sullivan, etc., and which were again purchased at a much later day by the city, the land so repurchased being now laid out as ornamental enclosures in front of the City Hall. It is observable that the west boundary of the deed of 1645 is on the burying-place. It was not until more than forty years after this period, under the administration of Andros, that the first Episcopal church, now known as King's Chapel, was erected on part of "the burying-place."

GLEANER.

IV.

KING'S CHAPEL BURYING-GROUND.

July 12, 1855.

MR. EDITOR: — There is a well-known legal conundrum — “What is that which, when it has once begun to *run*, never leaves off *running*?” The answer is, “A statute of limitation.” It, indeed, runs to some purpose. Its “might makes right.” An unauthorized intrusion upon lands — a barefaced *squat* — it converts at last into a *title*, guarded by all the sacred majesty of law.

Our citizens, as they pass by the chapel in Tremont street, see merely an ancient edifice, of fine proportions, belonging to one of our most wealthy and fashionable congregations, and in the burying-ground adjoining they behold the resting-place of those who, from age to age, *after having worshipped at that church*, have, at last, been gathered together beside its hallowed walls. *Nothing, however, can be further from the truth of history.*

Isaac Johnson was one of the most distinguished of the founders of Boston. His wife, the Lady Arabella, nobly born and delicately nurtured, sunk at once under the fatigues and privations of her western voyage, and died at Salem, where she landed. The place of her burial is not known —

“ Yet still she hath a monument
To strike the pensive eye, —
The tender memories of the land
Wherein her ashes lie.”

Her husband died shortly afterwards (September 30, 1630). The grave closed, as it were, at once over them both.

It is *tradition*, derived from the late Chief Justice Sewall, that Mr. Johnson had chosen for his lot the great square between Washington, School, Tremont, and Court streets, and that, by his desire, he was buried at the south-west end of that lot, “which gave occasion for the *first burying-place* of this town to be laid out round about his grave.” It is, however, a matter of doubt where he was buried, and it does not appear that this whole square, or, indeed, any part of it, was ever actually granted to him. It is

certain that, in the "Book of Possessions" (our *Doomsday-book*), it is subdivided among several possessors.

Thus, Richard Hutchinson is "Possessor" of the S.E. corner lot on Washington street; the burying-place is located at the S.W. corner on Tremont street; while, between them, comes the estate which, in 1645, Thomas Scotto sold to the town (now the City Hall estate).

Here, then, were buried those sturdy champions of Puritanism, who, dreading and detesting the thralldom of the Church of England, had left the comforts and luxuries of the Old World, that they might worship God according to their own consciences; who through life had looked with almost equal aversion upon Episcopacy and Popery. The feeling that prompted Endicott to cut out the *cross* from the King's colors — however the policy of his act might be questioned — really pervaded almost all minds. Fleeing from persecution themselves, they thought that they had the right to drive forth from among them, *even by persecution*, those sectaries who sought, under claim of like liberty of conscience, to worship God in modes which *they* judged erroneous. Here lie buried John Winthrop, "The Governor," d. 1649; "the famous, reverend and learned Pastors," John Cotton, d. 1652, John Davenport, d. 1670, and John Oxenbridge, d. 1674; Major Thomas Savage, d. 1681-2; Major Thomas Brattle, d. 1683, and others, their wise and brave contemporaries.

Mr. Cotton's burial has been quaintly described as "the most *grievous* and solemn funeral ever known upon the American strand;" and an elegy is extant "on the Sudden and much Lamented Death and Expiration of that Worthy, Grave, Pious, and Everyway accomplished Hero, Major Thomas Savage, Esq'r."

How would it have shocked these worthies on their death-beds could they have foreseen that their last resting-place was eventually to be desecrated by the intrusion of a *hateful Episcopal edifice*, within which, in still later times, under Episcopal forms, what they would have regarded as the *damnable heresy of Unitarianism* would be inculcated!

In May, 1686, the first society of Episcopalians was formed. The old charter of the Colony having been annulled, and the political power being then in the hands of that denomination, on the arrival of Andros, in December of that year, they succeeded in *compelling* the Old South Society to permit them to use their building as often as occasion required. Drake says: "How the (Episcopal) Society obtained the land on which their church stood has

not been discovered ; * but it is not at all improbable that it was taken by order of Governor Andros out of the common burial-place which was given to the town by Mr. Isaac Johnson." It is certain that it was built on part of that burying-place, — an appropriation of the spot which could not have been obtained from the *living* except under duress, and which would have been utterly repugnant to the most cherished feelings of the *dead*. The act, in-

* Somewhat later Mr. Bowditch obtained some light on this subject, and May 28, 1858, he published the following in the " Transcript " : —

A QUESTION OF TITLE.

MR. EDITOR : — In an article printed in the Transcript, in 1855, I illustrated the doctrine of squat titles and titles by possession by the case of King's Chapel — a part of a public burying-ground *taken* from the town for an Episcopal church, in the times of Andros. I had a list of all deeds indexed under the name of " Boston," and found no deed recorded. I still believe that article entirely accurate as to the original edifice and the land under it. Within a day or two, however, my attention has been called to a deed indexed under the names of Thomas Hancock and others, to Henry Caner and others, but which is really a deed of *the Selectmen of Boston to the wardens and vestry of King's Chapel* in 1748 (Suff., 76, f. 82), by which certain *additional* pieces of land are *bought* by said grantees for the enlargement of the church, and which deed of course recognizes the ownership by said wardens and vestry of the original lot. Thinking that a religious society would feel relieved to learn that *any part* of their church and land had been *bought and paid for*, I am happy to refer them to this old deed, which, not being indexed under the names either of " Boston " or " King's Chapel," would necessarily be overlooked by all who sought for it.

GLEANEER.

In a tract entitled " A Vindication of New England," printed in 1688, written probably by Rev. Increase Mather, we find these words relative to the Episcopalians of Boston : " Thus at their own charge they built an house ; but can the Towns-men of Boston tell at whose charge the land was purchased ? " From a letter of Judge Sewall's in Mass. Historical Society's Collections, 4th series, vol. viii., p. 517, it seems certain that the Council under Andros's administration took the land for the church-building. There was no legislature, then, and this act of the supreme authority of the colony could not be questioned.

But there is also evidence that, as early as 1710, the town entirely acquiesced in the title of the Chapel, and was willing to grant an enlargement of its bounds. There will be found in the Eighth Report of the Record Commissioners, on p. 74, the following : —

" At a meeting of the Free holders and other Inhabitants of the Town of Boston, duly qualified and warned According to Law, being convened at the Town-House the 14th of Octo^r 1710.

A motion or Request in writeing being presented and distinctly Read at this meeting & is as followeth viz^t.

" The Request of the Hon^{ble} Coll^o Francis Nicholson together with the Ministers, Church Wardens, and others of the Church of England in Boston Sheweth.

" That the Church being too Small to accomodate the congregation and Strangers that dayly Increase. And are desirous to Enlarge the Same with the Approbation of the Select men and Inhabitants, but wanting Ground on the North Side and East End, Request that they may have a Grant of fifteen foot wide on the North Side and Seventy four foot in Length. And ten foot at the East end of the Church in

deed, could not, at first, have been regarded in any other light than as a flagrant wrong and insult. It is, however, now the source of one of the best *titles* in Boston, and is at least one *good* fruit of the tyranny of Sir Edmund Andros.

According to the usual practice of reserving the most important matters for insertion in the postscript, I would mention that I, myself, witnessed on this spot a truly sacrilegious official act,

"Length which is included in the S^d Seventy four foot. Reserving the Same Liberty "to all persons who have had any friends buried in Said Ground which they En- "joyed heretofore. Which Request being granted Shall be ever Acknowledged &c." Voted. a grant to the S^d Gentlemen of their abovesaid Request."

The deed from the town in 1748, quoted by Mr. Bowditch, is here reprinted in full, as it can hardly be abbreviated. — W. H. W.

This Indenture made the tenth day of March, Anno Domini one thousand seven hundred & forty eight, and in the twenty-second year of his Majestys reign between Thomas Hancock Esq^r. Middlecott Cooke Gent^l. John Steel Esq^r. William Salter and John Tyng, Gentlemen, Samuel Grant, Upholder, and Thomas Hill, Distiller, all of Boston in the County of Suffolk and Province of the Massachusetts Bay in New England and present Selectmen of said Town, on the one part, and Henry Canner, Clerk, James Gordon, Shopkeeper, John Box, Merchant, John Gibbins, Apothecary, Charles Apthorp, Esq^r. Sir Henry Frankland, Baronet, Eliakim Hutchinson Esq^r. James Smith, Merchant, George Cradock, Jonathan Pue and Job Lewis Esq^rrs. James Forbes, Merchant, Sylvester Gardiner, Physician, and Charles Paxton, Esq^r. all of Boston aforesaid, as the said Henry Canner is Minister, the said James Gordon and John Box the Wardens, and the said Charles Apthorp, Sir Henry Frankland, Eliakim Hutchinson, James Smith, George Cradock Jonathan Pue, Job Lewis, James Forbes, Sylvester Gardiner, John Gibbins and Charles Paxton are the Vestry of King's Chappel in Boston aforesaid, on the other part: Whereas the Freeholders and other Inhabitants of the Town of Boston in Town meeting legally assembled on Monday the eighteenth day of April last, did, in answer to the Petition of said Minister Wardens and Vestry of said Chappel, by their vote then passed empower the Selectmen aforesaid to make a legal Conveyance in behalf of said town to the said Petitioners, (upon their first complying with certain terms and conditions therein mentioned and expressed,) of a peice of land situate in said Boston, fronting on School street, extending thirty feet on said street from the east end of said Kings Chappel, and includes the Passageway into the Burying Ground and the Westerly part of the School house and of the land thereto belonging, measuring thirty seven feet back from the said street, together with the old School house and other buildings belonging to it, being partly on the premises and partly on the Towns land adjoining, to be removed when the town shall require it, at the expence of the Petit^r.; also a strip of land thirty feet in length & four feet wide, extending from the northeast corner of the old Chappel upon a line with the north side of said Chappel, in order to erect thereon part of the walls of the propos'd New Church; also another strip of said wedth adjoining to and turning upon a right angle with the former, thence running until it meets the larger peice herein first proposed to be granted, saving a passage way of six feet wide in the last mentioned strip thro' the walls of the new Church, in some convenient place between the said Northeast corner and the Chancel hereinafter mentioned, which entrance shall be at least six feet high, leading into a peice of burying ground belonging to the town, which peice measures twenty five feet North and South & twenty feet East & West; also another peice of land in form of an half oval adjoining Easterly

perpetrated by the direction of a superintendent of the City Burial Grounds, now deceased. Under the very windows of the *Historical Society* he caused many gravestones to be removed from their original position, and rearranged them as edgestones by certain paths which he there laid out. The result is, that the tear of affection and friendship may hereafter be shed, or the sigh of sentiment breathed, *in a wrong locality*; and perhaps the bones of a *stranger*

upon the beforementioned parcels of land, & extending fifteen feet north and as much south from the middle of the Eastermost line thereof, and to extend ten feet further east in its extream distance from said middle point, being for the proposed Chancel: provided there shall be still left a passage way of at least eleven feet in the narrowest part between said Chancel & M^r. Cooke's line into the burying ground, provided also that the bodies of those who shall be known to lye in the said strips of land or within the said half oval peice, shall be decently taken up and buried in some other part of the burying ground with the consent of their friends, & in such manner as they with the Selectmen shall agree to and direct, or where no friends appear, they shall be removed as the said Selectmen shall direct, at the charge of the Pet^{rs}.; also a priviledge to extend their new building over the aforesaid peice of burying ground lying to the northward of the present School house, and measuring twenty five feet by twenty as before express'd, provided they do not carry the floor of the church or otherwise incumber the same within eight feet of the surface of the earth as it now lies, and that no Monuments or Grave stones either within or without the building be destroyed, and if accidentally broken in carrying on the work, be repaired at the charge of the Pet^{rs}., unless they shall agree with the friends of those who may lye buried in said peice of ground, or where no friends appear, with the Selectmen, to remove the bodies in manner as is herein provided for the other dead bodies before-mention'd: then and in such case that the Selectmen be impowered likewise to convey to the Pet^{rs}. said peice of burying ground and the entrance into it herein before reserved, which said terms and conditions were, that said Petitioners should procure and cause a legal title to be made to the Town of a certain peice of land over against the present Grammer School then in the occupation of the Widow Green and others, measuring thirty four feet and a half or thereabouts on School street, & ninety seven feet back more or less, bounded on the west by Col^l. Wendalls land, and easterly on a passage way leading to the house where M^r. Gunter now dwells, together with the priviledge of said passage way for ever; saving to the Petitioners a liberty of removing if they saw good, the buildings then upon said land when required by the Selectmen, said Petitioners likewise to erect upon said land a new School house, & finish the same in like decent manner with the present School house, to the satisfaction of the Selectmen, as by said votes reference thereto being had, may more fully appear. And Whereas the said Petitioners or some of 'em, in pursuance of said votes have since purchased the last described peice of land on the south side of School street, and by Deed conveyed the same to said Town of Boston, and also erected a new Brick School house thereon at their expence, which School house the Selectmen aforesaid have viewed, and judging the same to be compleatly finished, according to the Vote of the Town did by their vote pass'd the sixth of March instant accept of the same accordingly.

This Indenture therefore Witnesseth, that the said Thomas Hancock, Middlecott Cooke, John Steel, William Salter, John Tyng, Samuel Grant and Thomas Hill, Selectmen as aforesaid, in consideration that the aforesaid peice of land on the south side of School street aforesaid, has been conveyed to the Town of Boston, and a School house thereon erected and compleatly finished at the expence of the Peti-

instead of an *ancestor* may be piously gathered and entombed anew by a *descendant*, unsuspecting of so strange and inexcusable an outrage. In delightful contrast to this attempt to *improve* "The King's Chapel Burying Ground," let me refer your readers to a beautiful volume, in which it is *described*, by Thomas Bridgman, published in 1853, and entitled "Memorials of the Dead in Boston."

GLENER.

tioners, as is aforementioned, have granted enfeofed conveyed and confirmed, and by these presents do pursuant to said Town vote fully and absolutely grant enfeof convey and confirm unto the said Henry Caner, James Gordon, John Box, John Gibbins, Charles Apthorp, Sir Henry Frankland, Eliakim Hutchinson, James Smith, George Cradock, Jonathan Pue, Job Lewis, James Forbes, Sylvester Gardiner and Charles Paxton, the severall peices or parcells of land and priviledge aforesaid that they the said Selectmen were impowered to convey by the said Vote; saving and always reserving unto the said town all such rights and priviledges as they are particularly express'd & reserved to the town in and by said votes. To have and to hold the said granted lands and priviledge (reserving as aforesaid) unto them the Henry Caner, James Gordon, John Box, John Gibbins, Charles Apthorp, Sir Henry Frankland, Eliakim Hutchinson, James Smith, George Cradock, Jonathan Pue, Job Lewis, James Forbes, Sylvester Gardiner and Charles Paxton and to the successors of the said Minister Wardens & Vestry for ever, to & for themselves & the congregation that usually attend the Publick Worship of God in said place, and their only use and benefit for ever. In Witness whereof the partys to these presents have hereunto interchangesably set their hands and seals, the day and year first aforewritten. Thomas Hancock and a seal, Middlecott Cooke and a seal, John Steel and a seal, W^m. Salter and a seal, Sam^l. Grant and a seal, Tho^s. Hill and a seal. Signed sealed and delivered in presence of us, Ezekiel Goldthwait, Ezekiel Price. Suffolk ss. Boston March 10th. 1748. The aforementioned Thomas Hancock, Middlecott Cooke, John Steel, William Salter, Samuel Grant, and Thomas Hill Selectmen &^{as}, personally appeared and acknowledged the within instrument to be their free act and deed, coram John Fayerweather Just^s. Pacis. March 10th 1748 Received and accordingly entred and examined. P. Ezekiel Goldthwait Reg^r.

V.

THE BARRICADO OF 1672.

July 13, 1855.

Mr. Drake, in his "History of Boston," p. 394, says, under date of Sept. 5, 1672: "The fears of an invasion from the Dutch *may* have given rise to a stupendous project of fortifying the town. A *circular* wall was ordered to be erected, extending from one extremity of the cove to the other, or its terminations were the Sconce, *at the point now occupied by India wharf*, on the South, and Capt. Scarlet's wharf, at the foot of Fleet street, on the North." "*The circular line to be built upon was to touch the channel at the nearest point before the town, and between the wall and the seaward extremities of the wharves, built and to be built, one hundred feet space for vessels was to be left.*" "This great structure fell gradually into decay, and *it has been long since any vestiges of it were to be seen.* Its exterior was probably of wood. It went by the name of the *Old Wharf* as long as any of it remained."

There are various inaccuracies in the above statements. It would hardly be proper to say that the Declaration of Independence *may* have been caused by the aggressions of the mother-country. The Sconce, or *South Battery*, which was one terminus of the structure (though I have not my plans to refer to), coincides, I believe, with *Rowe's wharf** rather than *India wharf*, which it adjoins. The structure was not built on a *circular* line, but on a *straight* line or lines. It was the earliest large wharf erected in Boston. Long wharf did not exist till 1710. Central wharf and India wharf were built within the present century. Further, it was erected *without any reference to "touching the channel."* And what is meant by the phrase "Between the wall and the seaward extremities of the wharves built and to be built, one hundred feet

* Foster's wharf bounds northerly on "Sconce" lane, 13 feet wide, laid out in 1673. On the northerly side of this lane is Rowe's wharf, of which part was conveyed to John Rowe in 1764, by the executors of Jacob Wendell, and the residue (measuring 100 feet on Batterymarch street, now Broad street) was conveyed to said Rowe by the inhabitants of the Town of Boston, in 1785. (Suffolk, Lib. 181, fol. 258.) *This was part of the Old South Battery estate or Sconce.* The name of Batterymarch street is derived from this battery, which bounded upon it. — [Note by the author.]

space for vessels was to be left"? The facts are, that the structure was a sea-wall, built across the mouth of the cove, with certain "gaps" or openings left for the passage of vessels. All the flats outside of this wall, to the channel, and also two hundred feet in width of the flats inside of it, or towards the town, were granted in fee simple to the individual undertakers who erected the structure. And the various upland owners were restricted from wharfing out beyond a *circular line*, which was swept along the shore from one terminus of the structure to the other, which "circular line" ranged west of much of the present Commercial street, etc. The consequence was, that many conveyances of wharf-estates on this cove, for a century and a-half, instead of bounding on "the sea," or "low-water mark," bound on "*the circular line*," to which their right of wharfing out was thus restricted. *Mr. Drake, recollecting that there was a circular line somewhere, has erroneously transferred it to the actual structure.* The whole space between the "circular line" and the line of the two hundred feet of inside flats granted to the undertakers was to remain in common for wharfage, etc., and not merely, as Mr. Drake says, "*a one hundred feet space.*"

Mr. Drake speaks of this structure as having long since "*wholly ceased to exist.*" Down to the time of the erection of Central wharf, say forty years ago, a portion was standing, called the South Island wharf, on which were salt stores belonging to the proprietors of Long wharf. Over part of this Island wharf Central wharf was laid out. In digging for the foundations of that wharf branches of trees — part of the "primeval forest," with the bark still entire, were thrown up from the bottom of the original structure, with the stones in connection with which they had been sunk one hundred and forty years before. Another similar "island," lying north of the Long wharf, was removed about twenty-five years ago for the purpose of making a channel or water passage in common for the wharves in the vicinity. And at this present time (1855) one of the chief wharves of the city, though now of course rebuilt, is itself but a part of the Barricado of 1672, viz., the T wharf. The neck of the T, connecting it with Long wharf, is a part of that structure, and the T itself still maintains entire and enjoys its *two* hundred feet of flats inside, and all the flats outside towards the sea, — all, or nearly all, said flats being now covered by the present solid and substantial wharf. Here certainly is a very respectable "*vestige*" of this old enterprise.

The name of this structure was "The Barricado," or "out

wharf." It only acquired the name of "The *old* wharf or wharves" by lapse of time, and probably after it had fallen into decay; after it had got into the condition of an estate near the foot of State street, an ancient deed of which graphically describes it as "a messuage now running to despair." It is as much a misnomer as if the South Society had been stated to have had the prefix "*Old*" when it was first established.

The Barricado grant gave to each "undertaker" a fee simple title, but it was upon the *condition* that he, his heirs and assigns, should keep in repair the part which he built. Breaches of this condition have gradually worked a forfeiture of almost all these titles, but the grant itself will always remain one of great historical interest. *It is perhaps the most anomalous exercise of power recorded in our local annals; being utterly inconsistent with the prior vested rights of all the upland owners in that cove, who, by virtue of the Colony ordinance of 1641, as construed by the present conditions of our Supreme Judicial Court, already owned in fee simple all the flats to the channel.*

GLEANER.

VI.

ST. PAUL'S CHURCH.

July 14, 1855.

MR. EDITOR: — We have seen that King's Chapel Church originated in something like a "squat." There is one circumstance respecting St. Paul's Church equally peculiar, and perhaps not generally known even to those who worship there.

At the beginning of all things Robert Blott is found to be "Possessor" of a tract of land, measuring 140 feet on the highway, now Washington street, and extending in depth 276 feet along a cross street or lane, named from him Blott's lane, afterwards Willis's or Banister's lane, now Winter street. Behind this lot, occupying all the residue of Winter street to the Common, was the possession of John Leverett, who is named as the westerly abutter of Blott in the "Book of Possessions." The northerly part of Leverett's possession, measuring 210 feet in front on Winter street by about 100 feet in depth, is the source of title to the blocks of dwelling-houses now standing thereon, four of which front on Tremont street, the others on Winter street.

The southerly part of Leverett's Possession had been sold off, as early as 1664, to one Wyard or Wyre, though the deed is not recorded. Thus, we find that "Hudson Leverett, alias John Leverett," mortgaged in 1664 an half an acre of ground, bounding on the street north, the Common west, *the land now Goodman Wyre's W.* (evidently a mistake for S.), and Goodman Blott's easterly.

Robert Wyard and Sarah his wife convey to *John Wampas, an Indian*,³ by warranty deed, dated January 28, 1666, recorded Sep-

³ An instance of the holding of real estate by one of a class rarely so enriched in colonial days is recorded in Suff. Deeds, Lib. viii, fol. 298. It is here cited at length as a suitable illustration of the times, the necessary punctuation being supplied.

W. H. W.

DEPOSITIONS OF JAMES PENNYMAN, JOHN CLOUGH, JUNIOR, AND MENENO, NEGRO, RELATIVE TO [ANGOLA].

James Pennyman, aged forty one years or thereabouts, sworne, saith that about four years since, being in a shed that John Clough had sett up on a peece of land he had bought of William Talmage, joyning to the highway leading to Roxbury, at

tember 28, 1668, in Suffolk Deeds, Lib. 5, fol. 690, a tract of land 210 feet deep and 32 feet broad, more or less, bounded W. on the

his worke, y^e. late Richard Bellingham, Esq^r. & then Governor, coming rideing by, called to this deponent & inquired of him whether he knew who had puld downe his fence; y^e. deponent answered him he knew not, it was so universally donne, every one almost coming that way findeing it soe dirty would be pulling downe the fence to mend the highway; at which the Governor seemed trobled, but said, "I thought it would have bin better, I have given Angola the Negro, a peice of my land fronting to the highway, of fivety foot square, to him & his children for ever," upon which, the deponent answered him, "if your worshipp, now you are agiveing, will be pleased to give mee a peice, I would thank you and accept of itt." The Governor replied, "thou never didst that for mee which hee hath done; he was the onely instrument that under God saved my life, comeing to mee with his boate when I was sunke in the River betwene Boston & Winisimet, severall years since, & layd hold of mee & got me into the boate; he came in and saved my life, which kindnese of him I remember; and besides my giveing him fifty foot square of my land, to him & his, I shall see hee shall not want whilst I live." In which the deponent tould the Governor, that being hee had soe done & it was his pleasure soe to doe, or words to that effect, he might doe well to give him a Deed of Gift of it, for now the Law required that lands should be held by Deed of Sale or Deed of Gift; to which the Governor replied, he resolved to give him a Deed for itt, but they two should not differ. And further the deponent saith that not long after hee was present on the place, & on the said Governor Bellinghams request did help on John Jaxson a Carpenter to lay it out; & held one end of the pole by which the said peice of fivety foot of land square was measured & layd out to the said Angola, by his order, as now it is fenced in; & have bin injoyed by the said Angola ever since; the Governor then adding that hee gave the said peice of land to Angola & his heirs for ever, but so as not to be sould by his wife, in case shee should marry againe, from Angola's Children; & further saith not.

John Clough, Junior, aged forty seven or thereabouts, deposed, saith that hee was present neere the place abovementioned in James Penniman's deposition, & at that tyme, & saw the late Governor Richard Bellingham Esq^r. on his bay horse sitting, & so discoursing wth the said Penniman; & heard the said Richard Bellingham Gov^r. so declare, that he had & did give the said Angola the said peice of land of fivety foot square, to injoy to him & his heirs for ever; & in answer to the said Pennimans proposition of a Deed, heard the Governor to answer as above, adding, that hee & Angola shold not differ; and that hee was at worke when the Land was so laid out by the said John Jaxson, & that by the Governors appoyntment; beeing present, tho he was not soe nigh as to heare all that was then said.

Meneno, Negro, aged about 60 years, deposed, saith, that some foure yeare since, beeing at carrying of the late Governr. Richard Bellingham Esq^r. wood into his yard, when wec, that is myselfe & Angola, had done, the Governor giveing us a cup of sack, said, stroakeing Angola on the head, "I have given you a peice of land of fivety foot square; now I am in a good mood, goe & take itt;" & somewhile after, the sa Menene was present wth the said Richard Bellingham Gov^r. & John Jaxson, James Penniman & Henry Tyte, & is declared in the said Peniman & Cloughs oath, same the said Jaxson & Penniman to lay out the said land; & heard the Governor say to Angola, "now it is thine;" and further saith not.

Taken upon the oaths of the 3 severall persons herein mentioned this 16th. of 12th. m 73 before.

SYMON BRADSTREET } Assist.
EDWARD TYNG }

Recorded & compared 16th. 12: 73 p. Freegrace Bendall Rec.

Common, S. on John Cross, E. on Alexander Baker (who had succeeded Blott), and N. on land now or late of Leverett.

And it is from this Indian, John Wampas, that St. Paul's Church derives its title to the northerly portion of its estate, say 32 feet on Tremont street, by 210 feet in depth.

The light of Gospel truth emanating from a truly heathen source!

GLEANER.

VII.

THE FIRST CHURCH.

July 17, 1855.

MR. EDITOR: — It is believed that the title of the First Church in Chauncy place is, in one particular, entirely unique. Summer street, from its leading towards a mill, and from its passage by the Seven Star Inn (which once occupied the site of Trinity Church), was in ancient times known successively as “y^e Mylne streete,” and Seven Star lane.” It was at first called merely “the street” or highway. The “Book of Possessions,” among the estates on the south side of this street, has the following item: “Richard Hollich, one house and lot, bounded with Thomas Bell⁹ East, Gamaliel Waite, West, William Blantaine, South, the streete, North.”

From the possession of Gamaliel Wait, on the west, is derived the title of the store now occupied by Hovey & Co. Thomas Bell, named as the adjoining easterly owner, was dead in 1655, and his son Thomas sold to John Maryon [*i.e.*, Marion] a moiety of the estate in 1668, described as measuring 90 feet on the street, and bounded “with the land of Richard Hollidge West, and is there 254 feet more or less.”

Richard Hollinghead of Boston, planter [being the *third* alias under which this original possessor appears] and Ann his wife, “being preserved to a state of old age, attended with many weaknesses and infirmities, and for a valuable sum of money secured to be annually paid us, and the survivor of us,” — conveyed to Henry Alline and Robert Sanderson, “Deacons of the First Church of Christ in Boston aforesaid, whereof we are members,” “all that our dwelling-house and housing with the land whereupon they stand, yards, garden, orchard, barn, and land unto us belonging, situate on the southerly end of the town of Boston aforesaid, and butted and bounded Northeasterly on the street or highway, Southeasterly by the land of John *Marion*, Sr., Southwesterly by the land of Phebe Blanton, widow, and Northwesterly by land of Gamaliel Wait” (reserving during their lives the use of the old house, so called, and the little garden), “to have and to hold to

them, their successors in said office, or assigns, to the only proper use and behoof of said Church or Society forever," by warranty deed dated December 17, 1680, recorded December 20, in Suffolk Deeds, Lib. 12, fol. 1.

The first church edifice erected in Boston was on the south side of State street. The present Brazier's building occupies part of the site, though the original lot projected out much farther into the street. The whipping-post and stocks, etc., were, one or both, erected in front of it. The *mental* and *physical* means of improving the population were thus brought into immediate juxtaposition.

After standing on this spot about nine years the church was removed, in 1640, to its second location, on Cornhill square.

By an indenture in 1807 (Suffolk, Lib. 223, fol. 131) between Ebenezer Preble (who had succeeded Marion) and the then deacons of the First Church, Chauncy place was laid out, 40 feet wide, almost wholly over land of the church (a triangular gore of land, six feet wide on the street, and running to a point at the distance of 117 feet, being all that was contributed by Mr. Preble, who bought of the Society a somewhat larger triangular gore of land, extending from said point southerly and lying easterly of the easterly line of said place). The Society then sold Benjamin Joy, Esq., in 1808, their estate in Cornhill square (on which he erected "Joy's Building"), he agreeing to erect for the Society four brick dwelling-houses on the front portion of their Summer-street estate. Behind this block of houses stands the present church, bounding easterly on the new court thus laid out. And a school-house was subsequently erected on a lot sold off on the south side of the church.⁴

The original homestead lot of Mr. Hollich appears to have been about 150 feet wide, and more than 250 feet in depth; and now, though a quarter of an acre of it is appropriated as a highway, it

⁴ Few portions of the city have changed more rapidly than this. Many will remember Chauncy Hall school, founded by Gideon F. Thayer, and will also recall Chauncy place, separated from Bedford place first by an old brick wall, and then by a handsome iron fence, allowing transit to foot-passengers only. The church and the school both flourish on Back Bay. The demands of commerce, heralded by the short occupation of the west corner of Chauncy and Summer streets as a post-office, in 1860, have entirely changed Chauncy place. Through Judge Jackson's beautiful garden, on Bedford place, Avon street is now extended, and on the corner of Bedford street stands the Mechanics' Association Building, used as a City Hall, 1863-5. Just west of it, on Bedford street, stood The Second Church, in a lot bearing the last signs of Wheeler's pond. The High and Latin school-house opposite has vanished, and a wide though curving street has opened up to civilization various ends of divers courts. Suffolk place has been extinguished, and huge stores cover its site. — W. H. W.

conveniently accommodates two public edifices and four private ones. So that the first occupant had ample room for "swinging a cat" whenever he felt so inclined.

There is probably no land in Boston, except that on which Chauncy place Church stands, which is held under a direct conveyance from the first possessor, and of which no subsequent conveyance has ever been made.

GLEANER.

VIII.

NOVELTIES IN ESTATES.

July 19, 1855.

MR. EDITOR : — There are "curiosities of law" as well as "curiosities of literature." When just entering that profession — which I regret to confess was at a remote period of some thirty years ago — I remember hearing the following professional anecdote: A young lawyer had put up his "shingle," and sat waiting for his first client. An interesting female in black walked into the apartment, and submitted her case to his consideration. She was a widow, and the second-story apartments of her husband's house had been assigned to her in full of her dower or thirds in his real estate. *The building had just been burnt up.* The question submitted was, "What had become of her dower? This was decidedly a "poser." The attorney had to *dig* very laboriously to get at the *foundations* of this "castle in the air." What was the final advice given to this fair client I do not remember.

It is often the case that an arched passage-way is laid out through an estate, so that a *portion* of a house is sustained above it. Such are the estates at the entrance of Williams court, and of Disbrow's Riding-school, in Washington street. I do not recollect, however, more than two instances, in the whole city, of fee simple estates *without any land whatever attached to them.* One of these is the lofts over the arch on India wharf, which belonged to the late John Lowell, Jr., at the time of his death; the adjoining stores which sustain it being the property of others, one or both of them being subject to the easement of a stairway which forms the means of access to the lofts. The other instance is that of the apartments over the arch in Franklin place.⁵ Thus Charles Vaughan, William Scollay, and Charles Bulfinch, in consideration of five shillings, and for the promotion of the designs of the Massachusetts Historical Society, conveyed to said Society, May 1, 1794,

⁵ The entrance from Franklin street to Arch street was only wide enough to allow of the passage of one team. Brick posts divided the roadway from the sidewalk on each side. After the great fire of 1872 Arch street was widened, and the lines materially altered, at an estimated expense of \$334,000; including its extension through Morton place. Of course the arch disappeared. — W. H. W.

(Suffolk Deeds, Lib. 179, fol. 98), "the upper apartment or room in the centre building in Franklin place, in Boston, called the Crescent, with the passage-way or staircase leading to the same." [See, also, Lib. 446, fol. 43, Suffolk Deeds, for conveyance of Vaughan to the Boston Library.]

In contrast to houses without any land attached to them, we sometimes find lands upon which no buildings stand or can stand. Thus, opposite the last-mentioned arch, is the enclosed area in Franklin place. This originated under the following deed: Charles Vaughan, retaining 6-50ths, conveyed to 21 grantees 44-50ths of the block of eight dwelling-houses, east of the arch — by deed dated May 3, 1794 (Suffolk Deeds, Lib. 178, fol. 107), and covenants that a certain street shall be kept open, "enclosing in its circuit a piece of ground of semi-oval form — the shortest diameter of which, in the centre between its extreme points, shall be 30 feet, *which said semi-oval piece of land shall be kept unoccupied by any buildings forever*, for the accommodation, convenience, and beauty of said lot of land, and the advantage of said houses."

Buildings without lands are rather unsubstantial, — and land without buildings is rather unproductive. I should always give a decided preference to investments in which both are *judiciously united*.

GLENER.

IX.

THE NAMES OF STREETS.

July 20, 1855.

MR. EDITOR: — Few matters of mere taste and fashion result in more serious inconveniences than the frequent and capricious changes made in the names of streets. Our original street nomenclature was certainly not very select, yet how interesting would it be to the local antiquarian to feel sure at once of the identity of some 'old locality from its existing name! How many spots in London are still visited by pilgrims who delight to recall the wits and sages who formerly frequented them! The memory of the great lexicographer is better perpetuated by Bolt court than it would be by *Johnson square*.

Our *Pudding lane*, so called, probably, from some primitive eating-house,⁶ had not ceased to be an appropriate designation even in the days of the Exchange Coffee-house — though it had long been superseded by *Devonshire street*. *Frog lane*, so named from the ancient croakers on the Common, though now called *Boylston*

⁶In the notes to "John Dunton's Letters from New England in 1686," printed by the Prince Society in 1867, I have fully explained this name. It seems that the famous "Blue Anchor Tavern" fronted on Washington street and bounded south-east on Pudding lane. (Suff. Deeds, Lib. 21, f. 369.) The exact location is fixed by the deed of Mary Lidgett (Lib. 19, f. 71), of land bounded west forty feet on the highway to Roxbury, south by land and house belonging to Harvard College, north by Monck's house, etc. The store still belongs to Harvard College, and is the one occupied by Little, Brown, & Co. The Lidgett estate, which was bought of William Avery and Mary his wife, widow of John Tappan, seems to include the two stores next north of the College property, and thus the old tavern estate would be the one next north of the angle in the street. The lot north of the tavern belonged to John Wiswall, whose daughter, Mary Emmons, sold it in 1709 (Lib. 24, f. 241) to Elisha Cooke. It bounded south on the house formerly the Anchor Tavern, "now in possession of James Pitts," and north on house and land of said Cooke. Elisha Cooke, therefore, came next north, and the corner belonged to Col. Nicholas Paige. Said Paige gave it, in December, 1714, to Nathaniel Oliver (Lib. 30, f. 246), bounding north on King street (now State street) fifty-seven feet; east on John Gerrish one hundred and thirty-two feet; south on Cooke and Pitts; west on Cooke and Cornhill street (Washington street). The old lines remained with hardly a change until our times, when State street has been widened slightly, and Devonshire street (the old Pudding lane) has been materially altered.

The Blue Anchor Tavern was famous in our early history, until its sale in 1703. It accounts most satisfactorily for Pudding lane. — W. H. W.

street, will, I understand, in view of the very latest improvements, be officially changed to "*Squirrel avenue*." Goodman Robert Blott ought still to preside over Winter. When *King* and *Queen* streets gave place to *State* and *Court* streets, what lingering sense of loyalty to the House of *Hanover* caused that name to be retained? Think of Queen *Anne*, of glorious memory! being actually obliged to change her name, because, by harboring females of bad repute, she at last lost her own character, and made her *nearest* neighbors ashamed of her acquaintance! And, then, what an insignificant and unmeaning misnomer of *North street* was substituted! Look at the late preposterous extension of the name of *Congress street* through to Broad street, in violation, as it were, of the vested rights of Theodore *Atkinson*!

Hog alley, indeed, is the only ancient home which I am not prepared to defend. It was a small alley formerly running from Washington street, now discontinued and making part of the Adams-House estate and that next adjoining. Patriotism may palliate, though it does not justify, the merging into *Washington street* of the several streets known as *Dock square*, *Marlboro' street*, *Newbury street*, *Orange street*, and the *Neck*. How much more convenient were the former subdivisions, to say nothing of the victories of Marlboro' and the fame of the noble House of Orange, which these old names commemorated! Who can now tell, for instance, where 343 or 789 Washington street is, without first ascertaining the nearest cross streets between which it is situated? An old gentleman once told me that he had always lived in the *same house, but on six different streets*. It fronted easterly on Orange street, afterwards Washington street, and bounded northerly on Nassau street, afterwards Common street, then Tremont street, and finally Common street again, after Tremont street was extended through to meet Tremont road. An individual who devotes himself to the examination of land titles may, indeed, well sigh at these changes.

It is refreshing to a lover of the past to find a few names still commemorating original proprietors. The area included between Green street and Cambridge street once converged almost to a mere point, called the Field Gate. By different deeds, in 1667, 1672, and 1685, Simon Lynde purchased nearly the whole tract through to Chambers street, and the same became vested by mesne conveyances in his son, Samuel Lynde, who, in 1691, bought the remaining lot, and by deed dated in 1718 (L. 32, f. 270) conveyed the whole to John Staniford, as bounded easterly by the highway

i.e., *Bowdoin square*, which had cut off the apex of the triangles), 66 feet northerly on Green lane, 855 feet on a bevel line, as the fence runs; westerly on land of Charles Chambers, 546 feet, and southerly on Cambridge street, 677 feet. Through this tract of about six acres were laid out two highways, appropriately named *Lynde street* and *Staniford street*.

There is one "oasis" in this desert, — *one street of which the name can never be changed without a violation of the plighted faith of the city*. John Hull, who, by coining the famous pine-tree shilling for the public, amassed a large private fortune, invested some of his *residuary shillings* in a pasture at the north part of the town, containing $1\frac{1}{2}$ acres, bought of Richard Dumer in 1665. (Suffolk, L. 6, f. 235.) It was between Salem, Snowhill, and Charter streets. He died in 1683, intestate, leaving a widow and one daughter. His only child, Hannah, married Samuel Sewall, Esq., and *Hull street* was conveyed by them to the town in 1701 and 1705 (L. 20, f. 265), on the express condition that it should always continue to bear that name. If history had recorded nothing else of Judge Sewall,⁷ I should, from this one circumstance, have formed a high opinion of him as a judicious and discreet person. He did, indeed, temporarily yield to the witchcraft delusion of 1692; but, at least, *on the particular subject of the names of streets, he was decidedly in advance, not only of his own age, but of our own*.

GLEANER.

⁷ Judge Samuel Sewall will be long remembered on account of his most interesting and valuable *Diary*, covering the period from A.D. 1685 to 1730, now owned by the Massachusetts Historical Society, and printed by it in three volumes. — W. H. W.

X:

CHAMBERS' FOUR-ACRE PASTURE.

July 21, 1855.

MR. EDITOR: — We will walk a little farther into the pastures, or "The New Fields." Going from Bowdoin square, we left John Staniford, in 1718, owner of all the land to Chambers street. Next west of this estate came Chambers' pasture. This is traced back directly to the Book of Possessions, where we find, p. 144, "Vallentine Hill, of Boston, graunted unto Mr. William Davies a certain parcel of land in ye new field in Boston, being *four acres*, more or less, bounded on ye North with James Penn, John Biggs and James Penn on the West, and Robert Turner on ye East, and Thomas Buttolph on ye South; and this was, by an absolute deed of sale, sealed and delivered before William Aspinwall, Not. Pub., ye 2: 6 mo. 1648."

Robert Turner was the predecessor of Staniford. Buttolph's Pasture was south of Cambridge street, which did not yet exist.

Capt. William Davies died in 1676. His son and executor, Benjamin, conveyed to his mother, Sarah, who married Major Edward Palmes; and Palmes and wife, reciting this conveyance and marriage, convey to *Charles Chambers*, March 5, 1695-6 (Suffolk, L. 25, f. 10), "all that our pasture of four acres," etc., bounded W. on widow Mynott and on James Allen, N. on said Allen, E. on Manasseh Beck [a predecessor of Staniford], and S., *on the highway leading to said Mynott's house*" (i.e., Cambridge street).

Chambers laid out Chambers street, and in 1727 sold to Staniford a gore 14 feet on Cambridge street, 245 feet deep, lying E. of said street (Suffolk, L. 41, f. 214). After this he had left W. of Chambers street, a square tract of land, 320 feet wide on Cambridge street by 546 feet 4 inches deep on Chambers street; bounded both N. and W. on Allen; or, in reference to other streets since laid out, his pasture reached on Cambridge street to a point 70 feet W. of N. Russell street, while on Chambers street it reached a point 40 feet N. of Eaton street.

Chambers died in Middlesex, 1743, devising to four grandchildren named Russell. James Russell, acquiring the whole, conveyed

to Thomas Russell, 1778 (Suffolk, L. 164, f. 281). Thomas Russell, after selling off the northerly feet on Chambers street, conveyed all the residue to Daniel Austin, Thomas K. Jones, and Thomas Clark, in 1794 (Suffolk, L. 178, f. 249). These grantees laid out *F. Russell** street 40 feet wide, and Eaton street 36 feet wide, and divided the premises into 36 lots, — *being a land speculation of quite venerable antiquity*. In calling the street through this pasture Chamber street, the city has given it an absurd and insignificant name, in mutilations of the fair proportions of that to which it is really entitled. *A robbery even of a single letter is criminal. Official restitution should immediately be made.*

GLEANER.

* I cannot explain the *F.* except as a typographical error. The deed does not mention these new streets by any name, but Russell street is recorded on a list in A.D. 1800. Probably the author wrote *N.* (i.e., *North*) Russell street, as that is the present name, and as he had used it in the preceding paragraph. — W. H. W.

XI.

ALLEN'S TWENTY-ACRE FARM.

July 23, 1855.

MR. EDITOR:—Resuming our walks from Bowdoin square into the pastures, we find that Chambers' pasture, in 1648, bounded north and in part also west on James Penn, the residue of the west line being on John Biggs; while in the deed of 1695 to Chambers, Biggs has turned into "the widow Mynott," and Penn into "James Allen." The town granted, in 1641, to John Biggs, $1\frac{1}{2}$ acres "of marsh land on centinel hill field," extending back from the front (*i.e.*, Cambridge street) to a salt creek (*which is now missing*). Biggs devised to his wife Mary, who married a Mynot [Minot], and on her death, in 1676, her lands came to her father, John Dasset, Sen., who, in 1696, joins with his son, John Dasset, Jr., in conveying six acres to *James Allen, clerk*. (L. 17, f. 237, etc.) These six acres extended south of Cambridge street, besides including the north of the street.

James Penn was a man of the highest consideration in his day, — a ruling elder of the church. It is not strictly correct to say that he lived "at the Albion," but his mansion house was at that corner of Tremont and Beacon streets. He had an 18-acre pasture in the new fields as early as 1648. Perhaps it was held under the grant referred to the town's order of 18, 3 mo., 1646. He died, and, by will dated in 1671, says: "I give, etc., to Mr. James Allen all my pasture, being eighteen acres, more or less, lying between Major Leverett and Captain Davis, to enjoy after my wife's decease forever." Now, Capt. Davis was the predecessor of Chambers, and Leverett owned the large estate extending from Green street to the water, through which Leverett street was laid out by his heirs.

By these two sources of title, the farm now in question gets united in Rev. James Allen. He made a deed of settlement in 1706 (L. 23, f. 8), and in 1710 devised his lands in accordance therewith. By these instruments he vested in his son, John Allen, "all that his tract of land or *farm*, so called, containing by estimation 18 acres, lying in the new fields, which was devised to him

by his uncle, James Penn, deceased, and *two acres* of his meadow land, part of the purchase of John Dasset, lying next adjoining to the aforesaid farm or lands." It is very natural that Biggs' $1\frac{1}{2}$ acres should have grown a little. This 20-acre farm of John Allen embraced all the lands west, and also all north of Chambers' four-acre pasture, at the corner of Cambridge and Chambers streets, being situated between Cambridge street, south, the water, west, and the Leverett-street estates north and north-east. Allen extended Chambers street northerly through his lands, bending round westerly towards the water, being a 30-feet highway, known for many years as "*Allen's highway*, or *Wiltshire street*," now merged in the name of Chambers street.* Accordingly an elegant plan of the Leverett-street lands, 1728, is recorded (Suff., L. 40, f. 9) the west and south-west lines of which, in all 1,406 feet 4 inches in extent, from Green street to the water, bound throughout on "*Mr. John Allen's 30-feet highway*." These lines indicate the exact bounds of the Allen farm in that direction, so that it included Blossom street, Friend street, Vine street, North Grove street, Bridge street, McLean street, late South *Allen* street, Allen street, formerly North Allen street, Poplar street, etc., the City Jail, the Medical College, the Hospital Grounds, etc. *The whole of his extensive tract, except only two acres, immediately fronting on Cambridge street, being the possession of Penn.*

The entire lower part of Cambridge street was a marsh, the shore at this point being deeply indented. As now filled up, the tract will probably be thirty acres at least; and, besides this, Mr. Allen owned sixteen acres south of Cambridge street. The ropewalks, formerly on Poplar street, and those formerly constituting the boundary of the estates on Pinckney street, though so widely separated, were both on part of his one continuous tract of land. I think it certain, therefore, that *Rev. James Allen owned a far larger part of the territory of Boston than was ever owned by any individual, unless, perhaps, we except one William Blackstone.* And he, though he had a grant of fifty acres, only retained and cultivated six. And it may be safely asserted that *Mr. Allen's deed of settlement, in 1706, passed a title to more lands than any other deed recorded in Suffolk County.*

GLEANER.

* I do not include the part of Chamber street which runs into Leverett street, formerly known as Gravel street, and laid out through Leverett's land. — [Note by the author.]

XII.

ZACHARIAH PHILLIPS' NINE-ACRE PASTURE.

July 24, 1855.

MR. EDITOR: — At our last walk into the pastures, we had got stuck at the extreme end of the north side of Cambridge street, in “a parcel of marsh ground, lying in ye Centinel Hill field, containing $1\frac{1}{2}$ acres,” etc., granted 27, 7, 1641, to John Biggs, “bounded with ye salt water toward the north-west, with a salt creeke toward the north.” If we now go into the “salt water,” and swim to the spot forming the present south corner of Cambridge and Charles streets, we shall see, south-easterly of us, at the distance of 250 to 300 feet, an elliptical line of shore, nowhere reaching within 100 feet of Cambridge street, and having a bend outwards towards the south, after which it again bends inwards. This north-west edge or slope of the “Centinel Hill,” or Beacon Hill, was occupied by a pasture of nine acres, the lines extending over the flats, northerly, towards Cambridge street, and also westwardly towards the channel. This is “*Zachariah Phillips' Nine-Acre Pasture*,” a name which sounds as familiarly in my ears as “Pemberton square.”

This pasture extends from Cambridge street, southerly, along the water side, till it meets the “Blackstone six-acre lot” at the bottom of Beacon street. Its east line begins on Cambridge street, at a point 110 feet west of Grove street, and then runs straight nearly at right angles, slightly converging towards Grove street, so that on the north side of May street its distance from Grove street is reduced to 66 feet. This straight line continues about 832 feet from Cambridge street, or to a point 266 feet south of May street; then there is a jog inwards of 140 feet; then it again runs south about 200 feet farther, and then westerly to the sea. These last lines are on Blackstone or Copley; the first long line is on the 16 acres of James Allen.

The earliest deed found is that of Samuel Cole to said Phillips, Dec. 30, 1658 (Suffolk, L. 3, f. 194). It has a little twist in the points of the compass. It conveys nine acres, more or less, bounded north on Brown and on said Cole [afterwards Allen],

on the sea south and west, and on Nathaniel Williams east and south. *Williams owned Blackstone's 6-acre lot.*

Phillips, in 1672, sells to John Leverett and Sarah, his wife (Suffolk, L. 8, f. 98). John Leverett died in 1678. In 1707, one-half of this pasture was assigned to the heirs of Hudson Leverett, who, in 1725, sold to Nathaniel Hubbard (Suffolk, L. 42, f. 65), and he to Nathaniel Byfield in 1726 (L. 42, f. 71).

The other half belonged to the six daughters of Governor Leverett, and, after mesne conveyances, five-sixths became vested in Byfield in 1726 by deed (L. 42, f. 69), and he *married* the remaining daughter, which got the whole title snugly unto him, since she "Dame Sarah Leverett, being minded to show regard, value, and confidence for and in said Nathaniel," conveyed to him her share, etc., 1718 (L. 37, f. 605).

This pasture was divided into 59 lots, — Southack and May streets being laid out through it parallel to Cambridge street, and Southack street (now called West Cedar street) being also laid out to run southerly along the shore. *Two other streets, Hill street and Short street, were also laid out, which many a modern house has now unconsciously covered over.*

I will not specify their exact location lest I should disturb those occupants whose "ignorance is bliss." West Cedar street has at a later day been continued northerly from Southack street to Cambridge street. This old plan was never recorded. Hon. Nathaniel Byfield sold off 7 of these lots, numbered 7 to 14, to Nathaniel Kenney; and then (apparently forgetting this deed, which *merely* included a lot 300 feet wide on Southack street, and thence extending westerly to the low water, widening as it went), for love to his three grandsons, Byfield Lyde, Francis Brinley, and George Cradock, makes a deed of gift to them of the *whole pasture* in 1729 (L. 44, f. 49). They appear to have made a *verbal* agreement to divide according to this plan, probably drawing lots from a hat instead of making a formal indenture; it being "*all in the family.*" This process, however convenient at the time, has since caused much trouble to others, if not to themselves. At a later period most of the northerly water lots on this plan get united in Charles Bulfinch, and the southerly ones in Messrs. Otis, Mason, Joy, *et al.*, or the Mt. Vernon proprietors.

The celebrated suits of the Overseers of the Poor against these proprietors were brought to recover some of the extreme southerly lots of this pasture. This debatable land extended from a little west of Louisburg square to the water, ranging a little north of

Pinckney street, and reaching near Mount Vernon street. One Tilley had mortgaged these lots to Pemberton in 1747, who foreclosed in 1750, and devised to the Overseers in 1782. The purchasers of the Copley estate, or Blackstone lot, in 1795, under a deed which ran westerly *towards the water*, found a fence standing, fastened to an old *powder house*, which was proved to have been as far north as within twenty feet of Pinckney street. This fence erroneously continued *to the water*, and included nearly all the *demande*d premises as part and parcel of the Copley lot. And as to the residue of the land sued for, the acts of the Mount Vernon proprietors in digging down the whole hill to a great depth in 1804, and laying out Charles street across the same, were held evidence of a good title by disseisin against all persons from whom, after such a lapse of time, a grant would be presumed. These suits, between thirty and forty in number, with a great array of eminent counsel, were among the most important private actions ever decided in this county, and gave quite a celebrity to "Zachariah Phillips' Pasture."

GLEANER.

XIII.

OLD GRANTS OF NECK LANDS.

July 25, 1855.

MR. EDITOR:—In 1708 the town of Boston conveyed to Samuel Phillips, David Jeffries, Thomas Savage, William Clark, William Payne, Benjamin Pemberton, Oliver Noyes, Habijah Savage, Elisha Cook, Jr., Thomas Bannister, Jr., and Benjamin Fitch, a tract of land and flats extending across the Neck from low-water mark to low-water mark (Suffolk, L. 24, f. 106). This deed gives no measures, but the grant extends from the pasture of John Bennett and land of Daniel Epes, as far south towards Roxbury as "24 feet beyond the new pavement." Not a very permanent monument! It was really a grant of about 1,000 feet in length. Its north line is the present Castle street,⁹ and its south line stops a little short of Dover street. It was on the condition that the grantees should finish a highway (now Washington street), and "secure and keep off the sea," which, as it would seem, sometimes washed across the land from east to west.

Three of these grantees (Habijah Savage, Bannister, and Fitch) released to the others, and in their stead Stephen Minot and John Noyes were admitted. And in 1709 a great indenture of division was made into ten lots, each of them measuring at low-water mark on the east side $97\frac{1}{2}$ feet, and at low-water mark on the west side 94 feet 3 inches—the lines being slightly converging. The measures on the east side of the street were 96 feet, and on the west side of the street 95 feet 4 inches. The indenture is recorded in Suffolk, Lib. 24, fol. 239. The premises thus divided, upland and flats, were probably *fifty acres*. This division is the source of all the modern titles within the extensive area which it embraces.

It is a fact, though it will hardly be believed, that *Castle street*

⁹ It may be well to mention here that the land on the north side of Castle street and west side of Washington street belonged to Daniel Epes. He bought it of William Paine, whose mother was Elizabeth Colbron, daughter of the first owner. Castle street is thus an important boundary, as Dea. Colbron's estate was very large, and no deed of division is on record. See *Sparhawk v. Bullard*, 1 Metcalf, 95-108.—W. H. W.

was once known as *Cambridge* street. Thus, in the division of Stephen Harris' estate (Probate Records, 1774, Lib. 74, fol. 28), a lot is set off, bounded east on Orange street, north on *Cambridge* street.

An interval of nearly eighty years passed without any further grant of Neck lands. But in 1785 the town conveyed to Stephen Gore and others a tract of land and flats 1,400 feet from north to south, extending 200 feet west of Washington street, and embracing all east of that street to low-water mark. (Suffolk, Lib. 149, fol. 126.)

Two of the original grantees, Nathaniel Davis and Joshua Farrington, give place to Edward Blake and Jeremiah Williams. The ultimate proprietors were Robert Davis, John May, Edward Blake, John Parker, Joshua Witherle, Benjamin Cobb, Jr., Stephen Gore, Nathaniel Curtis, Ebenezer Dorr, Amasa Davis, Jeremiah Williams, William Boardman, William Dall, and Caleb Davis. This grant was on the condition of erecting certain "barriers" for a like purpose of excluding the tide waters, and was, perhaps, nearly if not quite as extensive as the first.

An indenture of partition was made among these proprietors in 1778, dividing their land into 14 lots on both sides of Washington street, the general direction being by straight lines from low-water mark on the east side to the line of the town land, 200 feet west of the street. But, to avoid a bevel, every lot has a bend in its lines at about 70 feet from the street, which it thus meets at right angles. This bend has given a very peculiar appearance to all the buildings which have since been erected on this long range of lots. The indenture is recorded in Lib. 162, fol. 100. The area included in this division begins a few feet south of Dover street, and extends a little beyond the estate of the late John D. Williams, whose well-known partiality for a particular color is still perpetuated in his *green* house and *green* store. A parchment plan of this division existed *unrecorded* for more than half a century, but is now bound in at the end of a modern volume (Lib. 491), being separated from the indenture to which it relates by 229 volumes.

Beyond these lots, on the city lands, where we now find splendid dwellings and elegant public squares, there stood, year after year, only *the gallows* — that landmark of civilization — the traveller's guidepost at the entrance of a great metropolis! One of its posts formed the boundary of "Colonel John May's lot," which words of ownership were accordingly painted on it. A wag added the words "*and portion.*" Another anecdote is told of two friends,

riding into town across the Neck, one of whom, looking significantly at this structure, jocosely observed to the other, "Where would you be now if everybody had their deserts?" The reply was, "I ~~should~~ be riding into town *alone!*" It is said that when Marshal Prince was ~~executing~~ the sentence of the law on four pirates, an eminent counsellor, now deceased, ~~went~~ from motives of curiosity to witness the spectacle, intending to preserve a strict incognito. The marshal, however, happened to discover him in the background, and utterly disconcerted him by calling out to the crowd, with a loud voice, "Make way, there! make way for the Honorable Mr. O.!" Mr. O., though "born great," and though he had also himself "achieved greatness," doubtless felt that on this occasion he had "greatness thrust upon him."

GLEANER.

XIV.

COPP'S HILL.

July 27, 1855.

MR. EDITOR:—One of the most ancient burying-grounds in Boston is that at Copp's Hill. It is made up of several parcels of land. The north-easterly part, measuring 294 feet on Charter street and 154 feet on Snowhill street, was sold to the town by deed of John Baker and Daniel Turell, dated February 20, 1659, recorded November 1, 1736, Lib. 53, fol. 154. After Hull street was laid out by Sewall and wife, they conveyed to Joshua Gee in 1708 (L. 25, fol. 174) "one rodd square in which Mrs. Margaret Thatcher now lyeth buried," bounded north by the burying-place, and on all other sides by their pasture, with no right of way except through the old burying-place. They, in 1711, "for the purpose of enlarging the burying-place," conveyed to the Selectmen of Boston (Suffolk, L. 26, fol. 97) a tract of land measuring 170 feet on Snowhill street and 180 feet on Hull street; in other words, extending the old south-easterly line of the burying-place straight through from Charter to Hull street. In this deed was an exception of the "rodd square sold to Gee." The consequence is, that in the midst of this burying-place of the town there is a small square lot, which is private property, the place of interment of a wealthy lady, who, while living, owned a large estate in this vicinity.

The burying-ground has since been further widened on Hull street so as to include lots measuring 148 feet 10 on that street, originally sold by Sewall and wife to John Clark, Jr., in 1726; Wm. Lee, John Jackson, and Thomas Jackson, in 1816. But matters so *modern* cease to be interesting!

A word or two about Mr. Gee and Mrs. Thatcher. Joshua Gee, boat-builder, owned a very large tract of land and flats between Charter street on the north, Prince street south, Snowhill street east, and extending down the hill to the sea. He died in 1724, and his son Ebenezer dying in 1730, the estate came wholly to Rev. Joshua Gee, who died in 1748, and the division of his estate in 1750 between his seven daughters and his son Joshua is one of

the most important documents in the Probate Office. The Gas Company's works, Brown's wharf, etc., are held under it. This son died without issue, and the name of "Gee" thus became extinct among us. In the suit of *Rust vs. The Boston Mill Corporation* the locations of Mr. Gee's lands became important — and the *growth* of some of the boundaries and contents was amusingly commented upon by the late H. G. Otis (who on this occasion was, I believe, counsel in court for the last time), as being a circumstance which might naturally have been anticipated, as "Gee," in Greek, means the earth, *i.e.*, land.

Mrs. Margaret Thatcher was the wife of Rev. Thomas Thatcher. Her first husband was Jacob *Sheafe*, a man of note, who died in 1658. We find that a deed was made to Thatcher and wife by John Everedd, *alias* Webb,¹⁰ in consideration of £195 paid by her *as administratrix of her former husband*. It is dated July 5, 1666, recorded Suff., L. 5. f. 510. This deed included all the land between Salem, Hull, Snowhill, and Prince streets, except certain lots on Prince street, which had been *fenced in* previously. Mrs. Thatcher died, leaving a daughter, Mehitable, wife of Sampson *Sheafe*, and Elizabeth, wife of Jonathan Corwin. *Sheafe* and wife sold to Robert Gibbs in 1697. On a division between the families of Gibbs and Corwin, two streets were laid out, commemorating the family name of *Sheafe*, the first husband, and *Margaret*, the Christian name of the lady herself.

In regard to the right of way out of the "one rod square," it would seem that as to the *occupant*, at least, a right of *egress* is not so important from a place of *interment* as from a place of *residence*. And yet it appears that, after all, the venerable old lady, Mrs. Thatcher, must have *walked*¹¹ out of this lot, since I find among the inscriptions in the King's Chapel Burying-ground the following: — "*Here lyeth interred the body of Mrs. Margaret Thatcher, formerly wife of Mr. J**ob Sheafe, and late ye wife of the Reverend Mr. Thomas Thatcher, aetatis 68, obit 23d February, 1693.*" Who can tell, however? "To lie like a tombstone" is a proverb; and the tombstones in *that* burying-ground have been *shuffled* about so much that on a question of locality of interment their authority is especially apocryphal.

GLEANER.

¹⁰ This is one of the rare cases of an hereditary alias. The two names are often used thus linked together, on our early records of the first generation. — W. H. W.

¹¹ The author was mistaken about this supposed removal, as appears by his subsequent article, no. xxxiii. — W. H. W.

XV.

OLD BAKERS.

July 30, 1855.

MR. EDITOR:—One of the earliest trades of civilized man is that of a baker. How soon it may have been divided into distinct branches among us I cannot state. But a century ago there is recorded a deed from a "*gingerbread baker*." Presiding over his comparatively *luxurious* department, he probably looked down with contempt on his humbler brethren who merely provided the plain "*staff of life*." It is certain that old times were *golden* times for the bakers, and, doubtless, also for their customers, for there were no villanous adulterations in those days. At the time of the siege of Boston, Ebenezer Torrey, a baker, removed to Sudbury or its vicinity, and died leaving an estate of over \$100,000. After the Revolution (say seventy years ago), six of the wealthiest and most respectable citizens of Boston were bakers.

Three resided at the North End, — Edward Edes, John White, and "Deacon" Tudor; three at the South End, — Samuel Smith, John Lucas, and Edward Tuckerman. Mr. Edes has, I believe, left no male descendants living in Boston. The late Professor Webster was a grandson and namesake of Mr. White. Deacon Tudor owned a very valuable wharf estate on Ann street, near Lewis street. This family still hold the highest social position in our community. The chief legatee of Mr. Smith married Joseph Head, Jr., Esq., and they removed from this city several years since. John Lucas left at his decease a very large estate, and made many public and private bequests. He owned a tract of land on Washington street, adjoining *Lucas* place. Mr. Tuckerman left several sons, who were distinguished merchants. His estate, as divided in 1819, included very valuable parcels in State street, etc., and especially an extensive tract of land on the west side of Washington street, embracing all Dover street. The late Col. Joseph May remembered when these bakers were in the habit of going on horseback to Philadelphia, with specie in their valises, behind them, to make their purchases of flour, which were sent home by packets. *This journey generally occupied from two to*

three weeks, and they had notes up in church asking for ~~one~~ protection from its perils.

Shade of Molly Saunders, I invoke thee ! There have doubtless been fairer faces and more graceful forms than thine, but thy *gingerbread* was matchless. Thou hast infused new vigor into the elastic step of the youthful dancer. The statesman, wearied with the cares of office, and the politician, burdened with the affairs of the Commonwealth, have found relief and solace from thy ministrations. I have shaken hands with President Monroe, and *even* with President Pierce, but what were those glorious moments compared with one cake of thy "buttered gingerbread — price three cents !" Thy praises have been on the lips of beauty, of youth, manhood, and age, fifty, aye, seventy years ago, as they are now upon mine. Thy name and fame have become "historical," and have reached from the village of Salem to the metropolis of New England. Such is the fitting reward of true *genius* and a life devoted to the sacred cause of humanity ! *Milner's* rusks were excellent, and *Kelt*, when he tries, can do a thing or two ; but thou hast ever been unapproachable ! Vainly do my aged heart and *palate* now yearn for thee and thy delicious handiwork ! Yet wilt thou forever remain associated with the most tender and cherished recollections of my childhood ! Verily thou wast a queen among the bakers of olden time !

GLEANER.

P. S. — Don't you think, Mr. Editor, that the Salem papers will republish this obituary notice of *the late Miss Saunders* ?

XVI.

OLD ROPEWALKS.

July 31, 1855.

MR. EDITOR: — I fear that my subject will oblige me to “spin a long yarn.” The first rope-maker in Boston was John Harrison, A.D. 1642. His exact whereabouts is not specified by Drake, but can be very definitely fixed. His ropewalk, or “ropefield,” ten feet ten inches wide, is now covered by Purchase street, beginning at the foot of Summer street. Thus the range of lot on High street used to extend to the water, separated, however, into two parts by “Harrison’s ropewalk” or “ropefield,” or more recently by Purchase street. [See Suffolk, Lib. 5, fol. 99; Lib. 12, fol. 250.] In 1736 it became the property of the town, and was appropriated as a highway.

Harrison owned a large tract of land of at least 340 feet in extent on High street, measuring westerly from Atkinson street, and including all Prentice’s wharf, and part of Russia wharf, the principal part of which land was divided among his children in 1685. *Purchase* street is thus rightly named, as it was in part, at least, *purchased*. Drake’s History mentions that Harrison, in 1663, appealed to the Selectmen not to license a rival rope-maker, John Heyman, and remarks that “at the last accounts it was in the hands of the Selectmen.”

This notice of the *first* rope-maker in Boston brings back to my affectionate remembrance the *last* one, recently deceased. Associated for several years with the late Isaac P. Davis, as a trustee of one of our literary institutions, I ever found him to be a man of cultivated intellect, courteous manners, and the most genial kindness of heart. Habitually possessing almost unequalled knowledge of passing events, and great vivacity in narrating and commenting on them, he was a universal favorite in society. With him the “rope-maker” was merged in the “gentleman.” During the two centuries since our city was founded, that occupation has certainly never had a more popular living representative, nor one whose death — though at quite an advanced age — has been more generally and sincerely regretted.

The estates on the west side of Pearl street, about 130 feet deep, are made up of seven ropewalks, or strips of land. Of these the two inner ones are held under *Atkinson*, and the others under *Hutchinson*. Thus, the most west one, 20 feet by 744 feet, was conveyed by Theodore Atkinson and others to Edward Gray in 1712 (L. 26, f. 127), and became the property of John and Richard Codman, 1793. The next lot, 20 feet by about 740 feet, was sold by the same grantors in 1712 to William Tilley (L. 26, f. 126), and became vested in Mr. Davis in 1794. All the remaining lots are part of the $4\frac{1}{4}$ acres owned in 1668 by Eliakim Hutchinson. The Commonwealth, having confiscated the estates of Governor Hutchinson, conveyed part to Jeffry Richardson in 1793 (L. 176, f. 8); part to Samuel Emmons, Jr., and Victor Blair, 1782 (L. 174, f. 183); part to Rev. Samuel Parker, D.D., 1796 (L. 184, f. 145); part to Edward C. Howe, 1782 (L. 135, f. 22), and the residue to William and Archibald McNiell, 1782 (L. 134, f. 27).

The old name of Pearl street was *Hutchinson* street, which was rendered odious to our rebel ancestors by Governor Hutchinson. These ropewalks were burnt July, 1794, and the titles were all conveyed to Rev. Samuel Parker in 1796, under deeds from whom the present estates are held. Two acres, occupying all the west side of Pearl street, seems to be a snug little investment for a clergyman; but, unfortunately, he officiated in this matter not as a *proprietor*, but as a *mere channel of conveyance*, a "cat's-paw" for effecting a division of the estates.

Drake mentions the burning of seven ropewalks at one time, which he says were "in the vicinity of Atkinson street." He might have mentioned more definitely that they occupied the whole west side of Pearl street from Milk to High street. If they did not *bound* on Atkinson street, however, they *burnt* it.

GLEANER.

XVII.

OLD ROPEWALKS.

August 1, 1855.

The plan recorded in 1726 (L. 40, f. 9), with the division of the 11 acres of land of the Leverett heirs, by Leverett street, shows a *ropewalk* then existing there, which must have ranged across the land afterwards known as the Poorhouse, or Almshouse, estate at the point. It was held under a lease, and has not, therefore, left a durable trace among the conveyances on record. And yet it is probable that it is from the visible fact that one *Barton*¹² was making ropes there, that that whole point of land acquired and kept for a century the name of *Barton's point*. This name appears on Bonner's plan in 1722; and the *Barton Point* Association purchased all the city lands at the bottom of Leverett street in 1824. A similar instance is found in the old name of East Boston, which was *Noddle's Island*, though never owned by any "Noddle."

That island was owned by Samuel Maverick, whose feastings, failings, and fines have been so amusingly shown up by L. M. Sargent, Esq. His name is *piously* commemorated by the "*Maverick Church*."

Rev. James Allen, as we have previously stated, owned a large pasture south of Cambridge street. It was bought before 1700 in

¹²It seems a little strange that Mr. Bowditch, who says so much about ropewalks, has neglected to say more about Barton. The first record of the name here is that of Mr. Barton, of the fourth division of the Tax-list of 1674, which in 1681 becomes James Barton. In 1687 Hugh Barton is named, and again in 1691 and 1695.

James Barton, ropemaker, had a wife Margaret, and a son John, born here in 1686. In that year he mortgaged (Suff. Deeds, Lib. 14, f. 8) his ropewalk at the South End, bounded east to that of John Harrison, deceased, west by the street leading to Fort Hill. Later on his deeds mention his house and wharf on the east side of Anne street, near the drawbridge. He died in 1729, aged eighty-six. Long afterwards, June 27, 1755, commissioners were appointed (Suff. Wills, Lib. 50, f. 490) to divide this property between his two daughters, Margery Simpkins and Ruth Cook, and four grandsons, James, John, Samuel and Michael Barton, at the request of John Cook and his wife Ruth, Mrs. Margaret Simpkins, Mr. James Barton, Mrs. Catherine Barton, and Mary Bradford, called children and grandchildren of James B., of Watertown.

It seems that three of the four grandsons were then dead, only James surviving. Savage says that Margaret, daughter of the first James, married Robert Calef. — W. H. W.

several lots, containing in all 18 acres. By his deed of settlement, 1706, and his will in 1711 pursuant thereto, the southerly 7 acres became vested in his daughter Mary, wife of John Wheelwright. Both died, — the husband in 1760. He undertakes to give to his son Jeremiah the piece of land "which came to me by his mother." The son, however, really took as heir to the mother.

Jeremiah Wheelwright sold off to Enoch Brown $1\frac{1}{2}$ acres (Suff., L. 132, f. 120) which subsequently became vested in the Mt. Vernon proprietors, and included lands on Pinckney st.), etc. He, in 1783, conveyed to Jonathan L. and Benjamin Austin a ropewalk lot, 24 feet by 900 feet (L. 170, f. 42). Jeremiah Wheelwright died in 1784, and his devisees conveyed to Joseph Carnes another adjoining ropewalk, 20 feet by 900 feet (L. 189, f. 64), and to George and Peter Cade a third adjoining ropewalk in 1792. (L. 173, f. 20.) This also was 900 feet long, and it was 24 feet wide for 540 feet, and 12 feet wide from the residue.

These three ropewalks of *Austin*, *Carnes*, and *Cade*, were all bought in 1805 by Messrs. Asa or Samuel Hammond, Samuel Swett, and Ebenezer Farley, who laid out the same into house-lots fronting north on Myrtle street, and extending back to the rear of the Pinckney-street lots, all of which bound north on Cade's ropewalk for the whole extent of 900 feet.

Mr. James Allen had a farm of twenty acres north of Cambridge street and embracing Poplar street. On the south side of this latter street a range of three ropewalks was placed, fronting on Chambers street. Thus, in Suffolk, L. 43, f. 159, is a plan of all the Allen-street lots, 1729, the north line being on *John Allen's land or ropewalk*. Thus, one 25 feet wide was conveyed by Allen to his son Jeremiah, 1752, who, in 1757, conveyed to John Erving; subsequently "Tyler & Caswell's" ropewalk. The middle one, 25 feet wide, is traced through Wells, Winthrop, to Joseph Head, 1805. The north one is traced through Gardner, 1737, to Joseph Runnell, 1785. The two south ropewalks were each 25 feet wide; the north one, 30 feet wide.

All these ropewalks becoming the property of Samuel Brown and William Paque, were, in 1807, laid out into a range of house-lots, occupying the whole south side of Poplar street from Chambers street to the sea.

It is remarkable how extensively the initial letter P figures in regard to the location of these old ropewalks. Purchase street, Pearl street, Pinckney street, Poplar street, and the Point on which the Poorhouse was built; and I certainly consider that the

most provoking, perplexing, and protracted professional job which I ever had to undertake in my profession was that in which I found that, in order to get at the title of *one house-lot*, I was obliged to investigate from *three to seven ropewalks*. At this day such an examination would be preposterous, because of no practical importance.

After the Pearl-street ropewalks were burnt, the town sold off a range of ropewalks at the bottom of the Common, which were the last that remained standing within the limits of the city proper. They were west of Charles street, fronting towards the Providence-depot lot, and their rear line being towards the Mill-dam. Restrictions were imposed which secured to the public, light, air, and prospect over these low buildings. In the mayoralty of President Quincy they were all repurchased by the city, it being a favorite project of his to *improve* the premises in that vicinity by buildings. Generally *succeeding* in all his enterprises, this repurchase has been one of the most *successful* of his municipal undertakings, *in consequence of the total failure of the specific project* which alone led him to extinguish these ropewalk titles, since the city has thus gained the exclusive control of its beautiful Public Garden. *This pleasure-ground we owe equally to his having done what he did, and to his having been prevented from doing what he intended.* The first was an arduous enterprise, which only his energy could have accomplished. The last was rendered almost an impossibility by that very energy honestly exerted in a wrong direction.¹³

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¹³ The matter of the propriety of building on the Public Garden was long contested. The land was originally a strip of flats, in which rose Fox Hill as an island.

August 12, 1794, in a town-meeting, the question was considered of allowing the owners of the ropewalks destroyed by a fire on Pearl street to rebuild on the marsh.

In September the report of a committee was accepted, granting these ropemakers the marsh and flats, including the whole or such part of Fox Hill as fell within the bounds.

This grant, which was made in consideration of not building on Pearl street, was for a strip of land 300 feet wide and in length, extending from a line drawn parallel with Beacon street, and 500 feet from that street. The upper or eastern line was to run from the westerly end of Ridge Hill (being 500 feet from Beacon street), "directly towards Eliot street as far as the town's land extends on the west side of Pleasant street," leaving a "space of fifty feet between this line and the end of the rail fence projecting down from the burying-ground on the south side of the Common." The grantees might vary the lines by relinquishing fifty feet on the east line and taking fifty feet instead on the west side; or they might extend across the marsh diagonally, provided they did not come nearer than fifty feet to the end of the burying-ground fence, nor cross the line parallel with, and 500 feet from, Beacon street.

The town reserved "sixty feet in width across the southerly end of said piece of land for a road from Pleasant street down to the channel."

The selectmen "were also authorized to lay out a road sixty feet wide from Pleasant street along the easterly side of these lands over the marsh towards Beacon street," in order to meet a road that might be opened from West Boston bridge.

Thus Charles street was established, and Boylston-street continuation was projected.

The ropewalk lots were six in number, each fifty feet wide, and when brought back, in 1824, the first three lots measured 1,006 feet on Charles street, 1,138 feet on the west side. Lots 4, 5, and 6, measured 1,138 feet each.

In 1806 the ropewalks were burned and rebuilt. In 1824 the city bought back all these rights. On the 26th July and 27th December of that year the town voted on the following questions:—

1. On authorizing the City Council to sell the upland and flats west of Charles street. Rejected, 1,027 to 846.

2. In case the sale was authorized, whether the Common should be forever kept open. Agreed to, 1,111 for, and 737 against.

3. Whether a settlement should be made with the Boston and Roxbury Mill Co. Rejected, 1,404 to 420.

4. Whether the uplands and flats should be sold south of a line from a point on Charles street, opposite the south-west corner of the Common (1,350 feet from Beacon street), running at an angle of 85° with Charles street, to the bounds of the city flats; *provided*, that the Common, and all the upland and flats lying west therefrom, should be kept forever free from buildings. This was rejected, 1,404 to 420.

5. Whether the City Council should be authorized to lay out any part of the lands and flats, lying west from the Common, for a cemetery. Rejected, 1,632 to 176.

In 1843 the question of selling the land was revived, and a pamphlet was printed giving the opinions of Jeremiah Mason and Franklin Dexter, to the effect that the ropewalk lots were part of the Common, and as such could not be sold. Mr. Bowditch signed a similar opinion about the land north of the Providence depot. See, also, a pamphlet entitled "The Public Rights in Boston Common. Being the Report of a Committee of Citizens. Boston, 1877."—W. H. W.

XVIII.

JAMES ALLEN'S SIXTEEN-ACRE PASTURE.

August 2, 1855.

MR. EDITOR:—After our late *swim* we landed on Zachariah Phillips' pasture, at the end of the south side of Cambridge street, and have seen that the earliest deed in 1658 bounds on Brown and on Samuel Cole, afterwards land of James Allen. Accordingly we find that James Brown, joyner, conveyed to Josiah Cobham in 1666 (Suff., L. 5, f. 84) two acres, more or less, bounded south on Brattle, east on John Biggs, west on Phillips, north on the beach or river. [The water then extended up some distance east of the present end of Cambridge street.]

Josiah, the son of this grantee, was dead in 1691; and Josiah, 3d, his grandson, in 1697, sells to James Allen (Suff., L. 18, f. 21) "two acres of land on west side of Boston, late in the tenure of my grandfather, Josiah Cobham, bounded south on land now or late of Thomas Brattle, Sen'r, east on John Biggs, now said Allen's, west on late Zachariah Phillips, and by the beach and river north-erly." [Cambridge street did not yet exist.]

In tracing the title of the Allen farm on the north side of Cambridge street, we found a grant to John Biggs, in 1641, of $1\frac{1}{2}$ acres of marsh for 40 shillings (rather a low price for all the land from the water to within 70 feet of North Russell street), which held out two acres. He also acquired 4 acres of upland adjoining, and his inventory, in 1666, mentions "4 acres of upland and $1\frac{1}{2}$ acres of marsh, £120." I do not find the grant to him of these four acres, though in 1644 he had liberty to fence in his marsh, and "if any quantity fell within the said fence above his proportion, he is to allow the town for it." Perhaps, therefore, he *fenced* in these 4 acres at the same price. He devised to his widow, Mary, who married a Minot, and died, as we have seen, devising to her father and brother, John Dasset, Sen. and Jr., who sell to said Allen, 1696 (Suff., L. 17, f. 237), a piece of land containing 6 acres, more or less, bounded with said James, north (*i.e.*, his land on the north side of Cambridge street, acquired under James

Penn), south and east on Nathaniel Oliver, west on Josiah Cobham. *Of this purchase 4 acres only come south of Cambridge street.*

Samuel Cole, after the sale in 1658 of Zachariah Phillips' pasture, retained a tract which he seems to have sold to Thomas Brattle; but the deed is not recorded. In the inventory of Cole's estate (Prob. Rec., L. 5, f. 37) is this item: "A bill due from Mr. Brattle, £20." This I *guess* was the purchase-money of this land. Brattle died in 1683, leaving seven children, and in 1684 (Suff., L. 13, f. 96) there was set off to his three sons-in-law, Nathaniel Oliver, John Ayre,¹⁴ and Joseph Parson, in right of their wives, "all that pasture-land lying in Boston near unto Centry hill." A subdivision took place in 1685, by indenture (Suff., L. 13, f. 380; L. 16, f. 64), by which this pasture is assigned to Mrs. Oliver. Nathaniel Oliver and Elizabeth, his wife, conveyed to James Allen, by warranty deed dated June 6, 1698 (Suff., L. 18, f. 180), "*eight acres*, etc., bounded north on the highway and on land late of John Dasset; east on *Davy* and on Mrs. Swett, late Thomas Butolph; south on the late Francis East and N. Williams; west on land late of Leverett, and on land late of said Dasset." [East and Williams owned the Copley lot on Beacon street; Leverett owned Phillips' pasture.]

*Zacheus Bosworth*¹⁵ had lands in the Book of Possessions. As early as 1648 he owned 5 acres in the vicinity (see mortgage, Suff., L. 1, f. 92), and he died seized, devising the same to his son Samuel, in 1655. He sold off to Richard Cook the easterly 2½ acres, 1665 (Suff., L. 4, f. 320); and by deed not recorded, but expressly referred to, he conveyed the westerly 2½ acres to Humphrey Davie¹⁶ (not the distinguished philosopher). Davie mortgaged, in 1683 (Suff., L. 13, f. 72), to secure a marriage settlement on his wife,

¹⁴ This name is more properly spelled Eyre, and should not be confounded with that of Ayer or of Ayres, both of which are found on our records. — W. H. W.

¹⁵ Our Humphrey Davie was, however, of some local importance. He was the fourth son of Sir John Davie of Creedy, Co. Devon, who was made a baronet in 1641. Humphrey came here, settled in Billerica, was an Assistant 1679-1686, and died in 1689. His second wife was Sarah, widow of James Richards, of Hartford. By his first wife he had a son John, who married his step-sister, Elizabeth Richards, and lived at Groton, Conn., until 1706, when, by the death of successive cousins, he became the fifth baronet, and returned to England to enjoy the family title and estates.

Zacheus Bosworth, who is named in this article, also owned, by the Book of Possessions, a lot of land on Tremont street, whereon afterwards Jacob Wendell built a house. Quite recently, owing to a law in regard to the names of streets, the Street Commissioners have given the name of Bosworth street to Montgomery place. This court, for its end is blocked by a flight of stone steps leading to Province street, was laid out in 1825, and must be on part of the Bosworth land. — W. H. W.

this tract called 4 acres, more or less (but which subsequently shrinks again to its true proportions), and the mortgage being foreclosed, his widow conveyed to John Davie; and John Davie and Elizabeth, his wife, conveyed to James Allen, by warranty deed, May 11, 1699 (Suff., L. 19, f. 358), "*about two and an half acres of pasture, enclosed, bounded west on the late Samuel Coole (Cole), now said Allen's; east on Richard Cook, since Elisha Cook; north on land in the tenure and occupation of Joseph Belknap, Jr., and on land of said James, heretofore Thomas Butolph; south on Thomas Miller, now Samuel Sewall, with an highway as heretofore used.*"

Now, these purchases of 2, 4, 8, and $2\frac{1}{2}$ acres, make up together *sixteen and a half acres, and constitute Allen's one continuous pasture, on the south side of Cambridge street, next east of Zachariah Phillips' pasture.*

GLEANER.

XIX.

JEREMIAH ALLEN'S PASTURE.

August 6, 1855.

MR. EDITOR : — We have shown that Rev. James Allen acquired, by four purchases, $16\frac{1}{2}$ acres on the south side of Cambridge street. By his deed of settlement in 1706, and his devise in accordance with it (1711), he vested in his daughter, Mrs. Wheelwright (as we have stated), the southerly seven acres; the whole of which (except the part thereof covered by three ropewalks on Myrtle street) gets united in the Mount Vernon proprietors; the easterly portion by the deed of the children of Enoch Brown, in 1797, (Suffolk, L. 186, f. 232), and the residue or westerly portion by direct deed of the devisees of Jeremiah Wheelwright, son and heir of Mrs. Wheelwright, in 1795 (L. 180, f. 191). The easterly line of the Brown purchase is 77 feet west of Belknap street.

The northerly tract, containing about *ten acres*, by the same deed of settlement and devise (1706-1711), was vested by James Allen in his son, *Jeremiah Allen*. He, about 1725, laid out the same into 87 lots, containing, generally, 4,000 feet each. Through the centre of the pasture he opened *Centre street*, and, at intervals of 200 feet on each side, other streets, called respectively *Grove street* and *Garden street*, — names doubtless then significant of the rural beauty of the spot. He also laid out at intervals of 240 feet, two cross streets, parallel to Cambridge street, viz., *Southack street* and *May street*. These two last streets are continued west into *Zachariah Phillips'* pasture, which was divided into lots at the same time; the two plans being evidently made to conform to each other. Neither of them was recorded. A large proportion of the lots of Mr. Allen remained unoccupied and unimproved by his grantees for very many years.

This pasture begins on Cambridge street, 110 feet west of Grove street, and extends to land late of Buttolph (now Buttolph street). It measures in front 550 feet on Cambridge street, and is in depth 648 feet, to the ancient ropewalk, the side lines slightly converging. At a later day Myrtle street has been extended across the extreme south lots of this pasture; so that it is now enclosed by

four very definite boundaries, viz., Cambridge street, Buttolph street, Myrtle street, and the east line of Zachariah Phillips' pasture.

This territory has been the theatre of very queer conveyancing. One Thomas G. Urann, in 1804, made warranty deeds at pleasure, for very trifling considerations, of certain portions of it which he found lying unenclosed and unclaimed. Some of his grantees hold to this day. He was at last deterred by threats of indictment from the further pursuit of this systematic project of land theft. In one single volume of Suffolk Deeds (Lib. 211) will be found no less than forty-eight conveyances *from* him. A deed *to* him would be a rarity. I was some years since amused at one of his heirs-at-law calling upon me, under the idea that he was entitled to some lands in this locality which his ancestors had left unconveyed. I told him that the only inheritance left by Mr. Urann was a minus quantity, viz., *the obligation to make restitution to the true owners of lands which he had himself wrongfully appropriated.*

About a century after the death of Rev. James Allen (1802), and *although he did not die owner of this pasture*, having disposed of it by deed in his lifetime, a decree of the Probate Court was obtained, *as if he had been owner at his death*, and as if his estate had been still in a course of settlement. By this decree an assignment was made of "his estate in Cambridge and Buttolph streets, valued at two hundred dollars," to one of his descendants, James Allen, he paying to the other *heirs* their proportion, and by him a conveyance of the fictitious title thus commenced was forthwith made for \$500. This legal *finesse* effected for many lots of this pasture what had been accomplished as to other lots in a *more manly*, may I not say a *more honorable*, mode, by Mr. Urann.

The late Mr. Otis possessed a lot, 70 by 100 feet, at the corner of May and Centre streets. He obtained a deed from the true owner of the corner lot, 40 by 100 feet, which bounded east on a lot belonging to the late Henderson Inches. Now, Mr. Inches, who bought in 1766, had accidentally mislocated his land 30 feet too far to the east, and his heirs, finding that they had all the deed gave to their ancestor, told Mr. Otis that if they ever lost the 30 feet which had been accidentally enclosed, they should take this 30 feet adjoining his lot, but otherwise not. Mr. Otis accordingly kept it as his own, and sold four house-lots, each 25 by 70 feet, *so that all the yards and out-buildings were upon this disputed territory.* After many years the Inches' heirs were sued, and lost their 30 feet. They then sued Mr. Otis' grantees, who were placed in a

very embarrassing situation, being certain of losing all the needful appendages to their tenements. The suits were decided in favor of the demandants, and Mr. Otis, paying the sum awarded by referees mutually chosen, the titles of his grantees were confirmed A.D. 1833.

The *moral* and *legal* character of this district was for a long time equally bad. The *Hill* was *the five points* of Boston. It was, however, purged by the official broom of President Quincy, and its *titles* and its *reputation* have become much improved by time.

GLEANER.

XX.

BUTTOLPH'S EIGHT-ACRE PASTURE.

August 8, 1855.

MR. EDITOR: — Leaving Mr. Jeremiah Allen's pasture, with its ancient "gardens" and "groves" sadly desecrated by civilization, we proceed easterly, and reach Thomas Buttolph's 8½-acre pasture. In the Book of Possessions, p. 57, "William Hudson, Sen., a lot in ye new field, containing about *fyve acres*, bounded with Richard Cooke on the east, Mr. Thomas Clarke west, sould to Mr. Buttolph, p. 42." And, accordingly, in p. 42, we find "Wm. Hudson, Sen., granted to Thomas Buttolph *fyve acres* of land in the new field, bounded with Richard Cooke east, James Johnson west, Wm. Wilson south, — Davis apothecary, north, and this was by a deed dated 26, 4, 1646, acknowledged same day before Mr. Winthrop, Governor." James Johnson's possession is described as "about *an acre*, bounded with John Biggs (our old friend) north, Francis Lloyle¹⁶ west, Zach. Bosworth south, Thomas Clarke east." Johnson seems to have acquired also Lloyle's and Clarke's lots. Thus we find that James Johnson conveyed to Thomas Buttolph by deed dated 14th, 6th, 1649, recorded 29th, 1 mo., 1654 (Suff., L. 2, f. 11), 3½ acres in Centry field, bounded on land of said Thomas east, on William Davis north, on Theodore Atkinson west, and Zacheus Bosworth south. *These two purchases vested in Buttolph the 8½ acres.* Davies owned the Chambers pasture on north side of Cambridge street.

Buttolph died in 1667, devising to two sons, John and Thomas. The latter died intestate, 1668, leaving a widow, Mary (who married Swett), and four children, Thomas, Nicholas, Mary, and Abigail. In 1682 John conveyed to these children his moiety (Suff., L. 12, f. 274).

Thomas died. Abigail married Joseph Belknap, Jr. Mary

¹⁶The Book of Possessions has been printed for the city in the second volume of these Reports. James Johnson's possessions are on p. 20 of the original. The name which Mr. Bowditch reads as Francis Lloyle is by me deciphered as Francis Loyall. In the record of his possessions he stands as Francis Lyle; and SAVAGE records him as Lyall, Lysle, Lisle, Lioll, or Loyal. — W. H. W.

married one Thaxter, and, after his death, Robert Guttridge. In 1701 these heirs divided the whole pasture (Suff., L. 23., f. 119), each having a lot of $2\frac{3}{4}$ acres; the westerly part being assigned to Nicholas, the middle to Mrs. Belknap, and the easterly part to Mrs. Thaxter, or Guttridge. This pasture extended from Buttolph street to Hancock street, being about 430 feet in average width, and in depth back it measured about 625 feet to Myrtle street. In 1734, by indenture between the Belknap heirs and Mrs. Guttridge, Belknap street was laid out (Suff., L. 49, f. 98). On the west side of Mrs. Belknap's lot was a ropewalk, 24 feet wide, which Nathaniel Belknap sold to Thomas Jenner in 1733 (L. 48, f. 179); sold in 1771 to Edward Carnes. It is a *straggling* ropewalk, which should have shown itself in my article on "Old Ropewalks." South Russell street was laid out in 1737 (L. 54, f. 203), through the middle of Nicholas's lot, by his heirs, Mary, wife of John Phillips, and Abigail, wife of Knight Leverett, or *rather by their husbands*. It was probably so named because it led in a southerly direction from Chambers' or *Russell's* pasture, or opposite to *North* Russell street.

Buttolph street was laid out along or across the extreme westerly line of this estate, and its easterly boundary includes the houses on the west side of Hancock street. The westerly portion of this pasture, like that of Jeremiah Allen, became gradually occupied by our "colored brethren." Thus a lot, no less than $88\frac{1}{2}$ feet wide by 117 feet deep, on the westerly side of Belknap street, bought by Ebenezer Storer in 1737, was conveyed by his executors to "Scipio." He is not styled in the deed "Africanus," but was no doubt lawfully entitled to that additional appellation. The deeds of this area show how exclusively the great names of antiquity are borne by this class of our fellow-citizens. Cato, Cæsar, Pompey, Scipio, here figure on an humbler stage than of old, in company with "Cuff Buffum," etc. And among the "Dinahs" and "Phillises" occur other female names, which, though derived from *bright colors*, really indicate, at *first blush*, the dark skin of the parties, viz., Olive, Violet, Rose, etc. Our city fathers, not being of opinion that "a rose by any other name will smell as sweet," have recently merged *Belknap* street into the less offensive name of *Joy* street. Buttolph street has not been disturbed, except that, with the usual official brevity, it has, like Eliot street, been curtailed of *one* letter,¹⁷ and now figures as Butolph street. Hancock

¹⁷ Mr. Bowditch is, perhaps, over-critical in respect to Eliot street. That street was laid out in 1740 through lands belonging to the descendants of Jacob Eliot, who was one of the brothers of Rev. John Eliot, the "apostle to the Indians." This family, in

street (so named from King *John*, having before been named *George* street, for King *George*) has always been occupied by *white* inhabitants, being the *genteel* end of Buttolph's pasture.

GLEANER.

all its branches, has always used the form "Eliot"; but the Essex county Elliots or Elliotts, to which belonged the Boston ministers and our Mayor, Eliot, have varied the spelling at times.

I annex an abstract of the indenture laying out Eliot street, and also that part of our Tremont street which crosses it. See, also, City Document No. 119, of 1879. "Nomenclature of streets." — W. H. W.

"Lib. 69, fol. 63-5. — 4 June 1740. Indenture between Benjamin Eliot } stationers;
John Eliot }

Rev. Jacob Eliot of Lebanon, Windham co. Conn.; w. of Jona. Willis of Boston, housewright, they four being the heirs of Jacob Eliot, mariner, dec^d, on the one part

Also John, Edward, Samuel & Jacob (Holyokes all),

Mary Arnold, Hannah Burrill, widows, & Sarah w. of John Eliot, stationer: — they seven being the heirs of Mary Holyoke widow dec^d — who was also an heir of Jacob Eliot & whereas the other sister & heir of Jacob E. was Abigail Davis who sold her right to bro. Benjamin, now they desire to make a division

First they lay out 2 streets at nearly right angles, one to run WNW from Orange street — to be called Eliot st; the other to run SSW from Frog Lane to Hollis st, to be called Holyoke st: to be described as follows.

Eliot st. to begin 21 inches from the S.E. corner of s^d Jacob Eliot's house on Orange st. occupied first by Paul Collins, then by John Clark & now by Benj. Eliot, to run in a straight line WNW 906 feet till it reaches land lately bo't by s^d John Eliot of Abigail Davis, widow — The street to be 30 ft wide. And as this 30 ft at the first point will run 7½ feet on the land of Joseph Henderson, late of Samuel Band, the s^d H. has sold a strip to the town for a street.

Holyoke street begins at the N.E. corner of land of W^m Lambert in Frog Lane & runs first through land of John Clough, next through the lands to be divided & then through land of Gov. Belcher till it falls into Hollis st."

XXI.

MIDDLECOTT'S FOUR-ACRE PASTURE.

August 9, 1855.

MR. EDITOR : — Our earliest deed of Scottow's pasture bounded on Jeremiah Houchin. His executors sell in 1677 (Suff., L. 16, f. 297) "all that their piece or parcel of land, situate lying and being in Boston, containing by estimation four acres, be the same more or less, being butted and bounded on the north by the highway, east by Mr. Simon Lynd, south by the land of John Turner, west by the land of Benjamin Gibbs." [Scottow had sold to Gibbs.] The grantees in this deed were Richard Middlecott and William Taylor. The latter died 1682, and his son and heir, of the same name, conveyed to said Middlecott, 1697 (Suff., L. 17, f. 351).

Middlecott died 1704, and a division was made 1727 (L. 42, f. 175), by which a 40-foot street was laid out through the pasture, called Middlecott street, which name it retained many years. This pasture measured 310 feet, 8 on Cambridge street, and extended back on the west side 689 feet, on the east side 741 feet, and in the rear it measured 210 feet. The lots on the west side of Middlecott street measured 130 feet on Cambridge street, and those on the east side 139½ feet on Cambridge street; and at the rear end of the pasture the lots narrowed to 85 feet on each side of this new street. The street so laid out was 40 feet wide.

Here then was one of the finest estates in the city, and this spacious avenue was appropriately named for one of its earliest owners. *Houchin* street would not have been quite the thing, but *Middlecott* street was unexceptionable, — a name agreeable both to the eye and the ear. It happened, however, that *one Bowdoin*, some 70 years ago, was placed by his fellow-citizens in that gubernatorial *ducking-stool*, in which the commander-in-chief is annually soaked while reviewing the "Ancient and Honorable Artillery." It also happened that he owned an estate on Beacon street. His devise (bearing the same name), in 1800, opened through this land a street in continuation of Mr. Middlecott's, and presto! *the whole street became Bowdoin street*. Now, it cannot, of course, be suspected that the living Mr. Bowdoin named this street

for himself. The act would savor of ostentation. The selectmen, doubtless, thought that having accommodated Governor *Hancock* with a street, they ought in justice to do as much for his rival. In itself the change was as absurd as if a boy, having a fine kite with an excellent bob to it, should, because it had a ribbon or *bow* added to it, be obliged to call the whole article by the name of this tail-piece.

The partiality thus evinced for governors has not yet died out, though now, indeed, it rarely extends to such as are either officially or personally defunct. But how appropriate would it be to confer the name of the governor for the time being, on the street in which he happened to live! The visible splendor and dignity of our highest office would thus be greatly increased; periodical changes in the names of streets would thus be brought about with even greater frequency, and in a less fitful and capricious¹⁸ manner than at present. Mt. Vernon street would become Gardner street, etc. If such a rule should prevail, perhaps, in a few years, *Winthrop* square would succeed as the *third* designation of *Pemberton* square, which has *only* had two names in twenty years. If it should be thought that in the event *Winthrop place* might lead to some confusion, that name, conferred in honor of a *dead* governor, could be exchanged. It is the order of nature, indeed, that the dead should give place to the living. Besides, it is rather an equivocal compliment to name *half* of a court for anybody. *Otis place* and *Winthrop place* could both be named for Sir William *Pepperell*, through whose estate *Otis place* is laid out. They could together be called *Pepperell square*. Two birds would thus be killed by one stone; and then in a few years the authorities could ignore the origin of the name, drop off the "ell," as they did in *Elliot street*, and the residents would hail, in the directory, from *Pepper square*. The *names* of streets, however, are comparatively unimportant, since we seem in a fair way to lose the *reality*, — *several streets*, as I learn by the papers, being *at once used up by the Metropolitan Railroad*.

GLENER.

P.S. — Is it true that the mayor had a present of a snapping-turtle, weighing forty pounds, to put into the Frog Pond? If so, I wish he would snap at our city functionaries for some of their proceedings.

G.

¹⁸ This word is as given in certain corrections printed by Mr. Bowditch at the time.
W. H. W.

XXII.

JOSHUA SCOTTOW'S FOUR-ACRE PASTURE.

August 10, 1855.

MR. EDITOR: — At the last advices I hailed from the west side of Hancock street at the easterly end of Buttolph's pasture; continuing easterly a *four-acre pasture of Joshua Scottow* is next reached, which extends from Hancock street easterly 280 feet on Cambridge street, or to a point $52\frac{1}{2}$ feet east of Temple street, and is in depth back, towards summit of Beacon Hill, 660 feet, or just below the line of Derner street. This estate was probably sold by Thomas Scottow to his brother Joshua, 27, 4, 1648. A mortgage by Joshua, discharged in 1665, mentions such a deed. Joshua Scottow conveyed to his son-in-law, Benjamin Gibbs, Jan. 10, 1670 (Suffolk, L. 7, f. 168). Colonel Benjamin Gibbs and Lydia, his wife, mortgaged the same to *our old friend*, Rev. James Allen, for £150, 1671, (Suffolk, L. 7, f. 192), who assigned it to Richard Wharton, by whom the mortgage was foreclosed, 1680 (L. 12, f. 329). Richard Wharton died 1691, and his administrator conveyed to Stephen Minot the south-west moiety, or two acres Nov. 24, 1697 (L. 18, f. 18), and to Isaiah Tay the north-easterly moiety or two acres, Nov. 23, 1697 (L. 18, f. 17). The whole pasture is thus described: "A pasture on the north-west side of Beacon Hill, containing about *four acres*, bounded north-east on the late Jeremiah Houchin, now Richard Middlecott's, south-east on the late John Turner and Richard Cook, south-west on late *Buttels* (*i.e.*, Buttolph's pasture), and north-west on the lane leading to the pastures" (*i.e.*, Cambridge street).

And here another "ropewalk" turns up, and one, too, of quite respectable size, viz., 44 feet 6 inches on Cambridge street, by 665 feet deep. It was sold off by Minot in 1731 to Samuel *Waldo* (Suff., L. 46, f. 170) from the easterly side of his allotment. *Waldo's heirs sold off to Joseph Ridgway in 1768* (Suff., L. 112, f. 105.) Now, the volumes 112 and 114 have been missing from the Registry of Deeds ever since the Revolution, — a most convenient circumstance for conveyancers, as it allows us to suppose ALL missing deeds to have been there recorded; an hypothesis which, of course, cannot

be possibly disproved. I myself caused this deed to be re-recorded in 1834 (L. 383, f. 20). It embraced all except a 30-foot lot at the south end, being 44 feet by 635 feet 6 inches. Across the west part of the old ropewalk was laid out a lane, 10 feet wide, now well known as *Ridgway's lane*. This ropewalk, and Jenner's ropewalk, which we found in Buttolph's pasture, added to those by Pearl, Pinckney, and Poplar streets, make together 14 *ropewalks in Boston, which were probably "spinning," all at once, for a period of at least sixty years.*

Mr. Minot had retained almost all the lots on the east side of Hancock street, being throughout about 91 feet deep, to this old ropewalk on Ridgeway's lane. He died in 1732, and a great division was made in 1733 among his heirs; John Minot taking the north lot, of the moderate size of 217 feet, on Hancock street; George took the next lot of 159 feet wide; Christopher contented himself with only the next, 85 feet, on Hancock street; while Peter brought up the rear with the south lot of 159 feet. All this long range of lots finally became vested in Jonathan L. and Benjamin Austin, from whom the modern titles of all the east side of Hancock street, north of Derne street, are derived; and this street should, I think, have been named for *Scottow, Wheaton, Minot, or Austin.*

Mr. Isaiah Tay died, seized of his two-acre pasture, in 1730, and devised the same to his wife; but the *poor man* forgetting to add the word "heirs" (*probably from not employing an attorney*), the *poor woman* lost her pastures, and it went to collateral heirs of her husband. In 1737 partition deeds were made (L. 54, f. 235; L. 55, f. 80), by which a 30-foot street was laid out directly through the centre of the pasture, leaving on each side lots 52½ feet deep. This street is now *Temple street*. About half of the land on the east side of this street (say 330 feet deep from Cambridge street) was subsequently bought by Joseph Coolidge, Esq., and formed part of the garden of his noble mansion-house estate, which, alas! has forever disappeared. Having now got into some of the best society in Boston, I like my quarters so well that I think I shall stop and pass the night. I may, perhaps, hereafter advise you of my further journey to the *eastward*.

GLENER.

P.S. — As the city fathers eagerly listen to all proposals for changing the names of streets, I beg leave to ask that *Temple street* should be changed to *Tay street*. A temple is a heathen

building, which only by poetic license is applied to a Christian church. The present name was given to this street before it had any church in it, or as a mere matter of taste and fancy.¹⁹ Now, as the law prevented Mr. Tay from *separating this estate from his family and name, it ought, at least, not to separate his name from the estate.* Tay is a word so short that it will not probably be thought necessary (as in so many other cases) to strike out a letter. Though, if that should be thought desirable, the *y* might of course be omitted. The word itself is extremely musical. It occurs in the poet's *lay*, and rhymes can easily be found for it through all the letters of the alphabet. The only objection that occurs to me is, that to our Hibernian fellow-citizens it may suggest merely a well-known *beverage*, instead of the ancient *legal martyr*, whose fate I wish thus to commemorate.

¹⁹ Surely Mr. Bowditch must have forgotten that Gov. Bowdoin's daughter married Sir John Temple, bart., whose daughter married Lt.-Gov. Thomas Lindall Winthrop. Temple was a Bostonian, by adoption at least, his father and grandfather having lived at the Ten Hills Farm, and was one of our most noted citizens. Doubtless this was the true source of the name of the street. In this connection I may add the wish that Mr. Bowditch had lived to protest against the change of the name of "Lindall street," which commemorated a famous family here, to the unmeaning and misleading title of "Exchange place," in 1873. For nearly a century and a half Lindall's lane or street was known. — W. H. W.

XXIII.

BULFINCH'S FOUR-ACRE PASTURE.

August 11, 1855.

MR. EDITOR:— You will remember that I was last in Middlecott or Bowdoin street, having entered Mr. Coolidge's garden from Temple street. He purchased the northerly lots on the west side of Bowdoin street, 1791, 1795, and 1825, which gave his estate a total front on that street of 368 feet 3 inches. This house and garden was altogether one of the most beautiful residences which have existed in our city within my memory. It was laid out into lots in 1834, and no less than 28 dwellings were erected on it; while a large parcel of nearly 5,000 feet, with a fine old tree upon it, was purchased and retained by the late Dr. Shattuck, for air, light, and ornament, for the benefit of his estate on the opposite side of Cambridge street. This, also, has just been covered with bricks and mortar. The Middlecott estate extended back from Cambridge street about 166 feet south of *Allston street*, that street (which was formerly known as *Somerset place*), and also *Bulfinch place*, 30 feet wide, having been both opened into Bowdoin street, through this pasture, and thence extended easterly into *Bulfinch street*.

This leads us naturally to visit *Bulfinch's pasture*. It seems to have been estimated as containing *four acres*. It measured north on Cambridge street 148½ feet, on the west side 874 feet, in the rear 74½ feet, then easterly 118 feet, and again south 23 feet, and then east again 673 feet to Cambridge street. It was devised in 1665 by John Newgate to his son-in-law, Simon Lynde [Lynde is named as east abutter in the deed of Middlecott's pasture], and as early as 1687 was vested in his son, Samuel Lynde. Rather more than 100 years ago it became the property of Thomas Bulfinch. It remained in his family nearly 50 years, being finally disposed of in 1796–1797.

The Revere House estate, 117 feet on Cambridge street, 184 feet on the west line, and 140 feet on Bulfinch street, was sold for the moderate sum of \$7,000 in 1797, and for many years was the well-known and beautiful mansion-house of the late Kirk Boott, partner of the late William Pratt, under the firm of Boott & Pratt.

It is rather remarkable that the private residences of both have expanded into hotels, — the latter having lived in the Pearl-street house. Mr. Boott's mansion had a more venerable-looking exterior than its age justified, it having been originally built with brick soaked in a preparation of molasses, with the design of excluding the moisture more effectually. When erected, Bowdoin square was the very centre and nucleus of aristocracy and fashion. Mr. Boott, indeed, had the offer of land in Beacon street, at a far less price per foot than he paid for this estate. Here resided the late Mr. Lyman (on the Baptist-church lot), the late Joseph Coolidge, Jr. (where stores are now about to be built), the late Samuel Parkman, and various members of his family, including his daughters, the late Mrs. Edward Blake and the late Mrs. Robert G. Shaw, for whom were erected the two stone houses fronting easterly on Bowdoin square. Though the glory of this locality has now departed, as far as respects its private splendors, yet to the public these are more than replaced by a hotel, which, in its accommodations and management, has no superior in the United States, or perhaps in the world. As you, yourself, however, live there, it is superfluous for me to enlarge on the ability and the courtesy of Paran Stevens. May his receipts never be less! GLEANER.

P.S. — As in duty bound we first paid our respects together to Mr. Blackstone, and ate some of his apples. We then strolled through a couple of burying-grounds, and looked into two or three churches, half-a-dozen bakeries, and about sixteen ropewalks. We also walked from Castle street beyond the green store on the Neck, to see a hanging. We have inspected the *hogs* in Hog alley, the *cows* on the Common, the — I was on the point of writing — but I mean the *mayor*, in the City Hall. We went on a sailing party from the "Circular Line," and landed on "island wharves," built by the hand of man "to traverse guns upon," where, however, we found more *salt* than *saltpeter*. We have even ascended *into the air* to visit an estate or two. But our chief excursion, now completed, has been from Bowdoin square, down one side of Cambridge street, and back again on the other side of the street to the point of departure. This we have made rather leisurely, stopping to chat with the neighbors as we went along. I have not myself thus far *picked up* much in these wanderings, though I will inform you, in confidence, that I have received an anonymous promise of some of "Mollie Saunders' gingerbread." If it comes, I shall indeed feel that I have "gleaned" to some purpose. In the meantime I dare say that I can get something *almost* as nice at the "Revere." G.

XXIV.

MOLLY SAUNDERS' GINGERBREAD.

August 13, 1855.

MR. EDITOR: — In my postscript to "Bulfinch's Pasture" I suggested a vague hope of receiving some of "Molly Saunders' gingerbread." That hope has been fully realized. I have just got a loud note from the old lady. It is signed "*Shade of Molly Saunders.*" But, though thus obviously coming from the *spirit land*, it was accompanied by a basket filled with the "real article," — precisely as I used to eat forty years ago. Of this there can be no possible mistake. Here, then, at least, is a "*spirit communication*" which cannot be explained away. It is most palpable alike to sight, touch, and taste. As you were the "medium" through whom this departed shade was apostrophized by me, a few cakes are sent to you in acknowledgment of your services in that capacity. If our deceased friend could be further persuaded to "impress" you and your readers with the *receipt* which she used while on earth, what an inestimable blessing would be thus conferred on mankind!

GLENER.²⁰

P.S. — It appears that the old lady had to return *here* to do the baking, and in her note to me she says, very feelingly, "I could not make it look just as it used to, for there is no wood and no ovens to be seen on airth now. I wouldn't live here again for nothing."

²⁰ Inasmuch as there is so little historical matter in this article, it has been thought admissible to print, as a note, an article which appeared at about the same date, and which is certainly worth preservation. It was printed in the Boston "Transcript" for August 2, 1855. — W. H. W.

REMINISCENCES OF AN OLD BOSTONIAN. (1855, August 2.) *To the Editor of the Transcript:* — Enclosed I send you a copy of a letter written in 1841, by Mr. D. Greenleaf of Quincy, to Mr. J. T. Hayward, which accidentally came into my possession a short time since. It has occurred to me that there are some facts relating to the local history of Boston, that are to be found in the letter, which are new, and perhaps many would be interested by their publication. You can make such use of the letter as you deem best. — A. M. H.

QUINCY, October, 1841.

MY DEAR SIR:—I have read with pleasure Col. Perkins's reminiscences, and am glad he has rescued so many things from oblivion; but as I am a few years in advance of our friend, I can look a little farther back, and rectify a few mistakes he has inadvertently made, and add something to the catalogue. 1st. Of the lower floor of the Town House—the two small offices—one was the office of the Superior Court, Charles Cushing, Clerk; the other for the Court of Sessions and Common Pleas, Ezekiel Price, clerk—both offices very shallow, being no deeper than the width of the stairs leading to the Council Chamber. At the time he speaks of there was neither Senate or Governor, nor till 1780, when the State Constitution was adopted, and Governor Hancock elected. 2d. The Declaration of Independence was read by William Greenleaf (my father), then sheriff. Henderson was not sheriff till some years after. My father was so proud of that proclamation that he had the paper from which he read it framed and glassed, and it hung over his parlor fireplace as long as he was a house-keeper. As his voice was rather weak, he requested Colonel Crafts to act as his herald; they stood together at the front of the balcony, and my father read a sentence, which was immediately repeated by Crafts, and so continued to the end, when was the huzza, as mentioned. There was an engine-house under the south-east corner. The lion and unicorn were burnt on the evening of the declaration on a bonfire, in front of the Bunch of Grapes, as were the king's arms from the Court-House, and all signs bearing emblems of royalty that could be found.

Ezekiel Price kept an insurance office before either Payne or Hurd,—I think in a building belonging to Col. P.'s father.

I remember a Tory oration delivered from the balcony of the British coffee-house, by a surgeon of a British Regiment (Doct. Bolton). It was meant to ridicule the 5th of March orations, and was delivered immediately after Mr. Hancock's or Dr. Warren's second oration, and was a low, vulgar abuse of the Whig patriots of that day. The main-guard was paraded in front with fixed bayonets, and the music sounded a grand chorus at the end of it. It was printed, and I had a copy till I removed to Quincy, when I gave it, with some other political pamphlets, to Rev. John Elliott, D.D., for the Massachusetts Historical Society.

The first Custom-House under the *U. S. Government* was in a building which makes the west side of the Exchange. The east side was Mr. Coburn's; but there was a Custom-House before under the *State* government, and James Lord was the Collector. It was opposite the south-east corner of Faneuil Hall.

Long wharf was commenced in 1710. North Battery wharf formerly belonged to the Town of Boston, and was sold to Jeffrey & Russell, and by them to Mr. Lyman.

Brattle-street Church was built in 1772. The Old North Church was pulled down during the siege for fuel, as was the wooden fence round the Common. The Common lay open until the peace took place in 1783 or 1784; a subscription was then raised to replace it, Dr. Oliver Smith being the promoter of it. I lately (say within five or six years) saw a paper printed in 1784, containing a list of the subscribers,—I think 234. I examined this list, and made out seven then living,—Capt. Barnard, Perez Morton, Thomas L. Winthrop; Jos. May and Joseph Woodward are since dead; and I believe Mr. John Marston and myself are the only survivors whose names were on the list.

The Latin School, in School street, was kept by John Lord, the father of James, who was usher under his father, but never was principal. The father and son were of different politics; the father was chosen one of the Mandamus Councillors, and the son carried off a prisoner by the British in 1776, and confined some time in Halifax. When exchanged, he was sent member to Congress from Massachusetts. He delivered the oration in commemoration of the 5th of March. There was before the war a Latin School kept at the North End by Master Hunt. In addition to the taverns named by Col. P., I remember the Mitre Coffee House, at the North End, Green Dragon, Union Street, Yankee Hero, and General Wolf, Wing's lane (now Elm street), a large tavern

at the foot of Brattle street, kept by a Mr. Cooper, afterwards by Mr. King, and the George tavern, on the neck, and several others of less note.

There was a large reservoir for water, called the flat conduit, between the foot of Elm street and the old building corner of Ann street, I think about 12 feet square, covered with plank, and raised about 2½ feet in the centre, and sloping both sides to within 6 inches of the paving; and on Saturdays this platform was a meal-market. If a sudden rain came on, the bags of meal (by my permission) were brought into my store for shelter.

The town dock then came up on the north side of Faneuil Hall, a little above Mr. Faxon's store; but the passage to it was so narrow at the foot of Merchant's row, that a swing bridge was placed there for the convenience of passengers to the north — the basin inside forming an octagon, and was generally filled by oystermen and Connecticut coasters. The fish-stalls were at the head of the dock.

D. G.

Mr. J. T. HAYWARD.

XXV.

SOUTHACK'S TWO-ACRE PASTURE AND TANYARD.

August 14, 1855.

MR. EDITOR: — On Saturday last I was left at the Revere, taking some refreshment, after our various excursions; and then, after eating a little "gingerbread," I started off with renewed strength and spirits. Having previously visited some other of our city churches, I thought I would now look in upon one which stands on almost the extreme south end of Bulfinch's pasture (as the Revere does at its north end). This pasture extended a few feet south of the south side of Ashburton place, so that it includes the whole front of the houses of W. T. Andrews and J. M. Beebe, to the average depth of 14 feet. The east line of the Mt. Vernon Congregational Church estate coincides exactly with the east line of this pasture, but on the west a small purchase was made from the Bowdoin estate. There are few more eloquent preachers than the Rev. Edward N. Kirk, and he is duly appreciated by a numerous and attentive congregation. In the summer season, so many of our citizens, especially as it happens among the Unitarian and Episcopal societies, retire into the country, that the churches of those denominations, if opened at all, present a clear case of only "two or three gathered together." Thus, out of 148 families belonging to King's Chapel, all are now absent except 12. But it is far otherwise with Dr. Kirk's society. Bulfinch's pasture is truly admirably represented *at both ends*. It makes adequate provision alike for physical and spiritual wants.

This pasture, as we have seen, after extending northerly 118 feet, made a jog outwards of 23 feet. Both these lines were on the estate of Cotton or Sewall, since of the late Gardiner Greene, who owned through to Tremont street a tract of land embracing the largest part of Pemberton square. Proceeding again northerly, the east line of Bulfinch's pasture is on land of Cyprian *Southack*, or more recently, of John Bowers, of *Somerset*. Accordingly, we find that Howard street was anciently named *Southack's court*, for the former, and *Somerset* street was so named by the latter.

This estate (next east of Bulfinch's pasture) contained two

acres. In the "Book of Possessions" is, Edward Bendall, p. 53, another house and garden, together with two acres of land adjoining, bounded on Sudbury street (*i.e.*, Tremont street) east; Robert Mears north; John Cotton south and west. Bendall sells to David Yeale, 1645 (Suffolk, L. 2, f. 48), whose attorneys convey to the use of Capt. John Wall, 1653 (*ib.*). He died 1670, and his heirs, in 1678, convey to Edward Shippen (Suffolk, L. 11, f. 195). Shippen sells off to Benj. Fitch, 1702 (L. 38, f. 56), a certain *tanyard* and land, bounded north on the highway leading to the Bowling Green (*i.e.*, Court street), 48 feet by 156 feet deep. He sells to Andrew Mariner the next westerly lot, 48 feet on said street, 1691 (15, f. 167), and in 1702 sells all the residue to Cyprian Southack (Suffolk, Lib. 21, f. 14): "All that messuage, containing two acres, more or less, bounded on Sudbury street (*i.e.*, Tremont street) east; on land now or late of Sewall, south; on land now or late of Samuel Lynde (*i.e.*, Bulfinch's pasture) west; and north on the way leading by the south side of the Bowling Green; excepting therefrom the lots sold Mariner and the tanyard in the occupation of Russell." Southack sells off to Jonathan Armitage, 1718 (Suffolk, 33, f. 51), the remaining or westerly lot, 74 feet on Court street by 200 feet on the west line, so that this pasture measured 170 feet on Court street; and he granted him a right in a new highway, 27 feet wide, laid out south of these lots, 1720 (Suffolk, L. 35, f. 51). This was Howard street. Southack's pasture, south of Howard street, was of an L shape, bounded north on that street 141 feet, west on Bulfinch's pasture 440 feet, south on Cotton or Sewall about 614 feet, east on Tremont row 103.3, then north on Robert Mears' possession, and east on other lands. Various changes of these boundaries were subsequently made. John Bowers bought, 1799-1800, a tract extending about 62 feet west of Somerset street, and 147 feet east of it; and a large portion, therefore, of his lands was wholly east of Southack's pasture.

The most easterly of Bowers' lots was the Howard Athenæum. The rear wall of that estate is an embankment of at least 40 feet in height, showing the difference of level between it and the north estates on Pemberton square. The lots on both sides of Somerset street, from Howard street to the range of the north line of the estates on the north side of Ashburton place, are held under deeds from Bowers. On the east side of this street stands a block of two houses, built by Ebenezer Francis, Esq. (to which a third has been lately added). The northerly of these houses belongs to Dr. Charles T. Jackson, who recently received from the Sultan

a decoration for the ether discovery. [It would seem that the Sultan had not heard of one Dr. Morton, whose office is in Tremont row.]

The southerly house in this block has also had some distinguished tenants. It was first occupied by the late Uriah Cotting, who, in the construction of India wharf and Central wharf, Broad street, and Cornhill, etc., etc., and especially by the stupendous enterprise of the Mill-dam or Western avenue, evinced an almost incredible genius, activity, and energy. His services, indeed, seem to be forgotten by the present generation. His very name is scarcely preserved except by his tombstone in the Granary Burying-ground. But our local historians, through coming ages, as the future shall more and more develop the results of his improvements, will gratefully recognize his claims as the *Chief Benefactor of Boston*. Subsequently to his death this house was occupied by our fellow-citizen, William Ropes, a distinguished Russia merchant, whose vigorous old age still shames the degenerate manhood of many who are half a century younger than himself.²¹

Daniel Webster became its tenant while he was in the full maturity of his glorious powers, before disappointment had darkened around him, and before he had ever uttered a word or done an act as a statesman which any of those hearts that most honored him could have wished unsaid or undone. Having been one of his warmest admirers, I will not say *more* than this *of the dead*; yet, believing that but for him the fugitive slave law — that accursed torch of civil dissension! — would not now be throwing its lurid glare abroad through our land, I cannot say *less*. *Abbott Lawrence* next occupied this mansion, one whose entire career, both public and private, has reflected so much honor on our city, our country, and our age; and whose precarious health, at this very moment, awakens such intense solicitude among ourselves, and has brought back echoes of regret from the other side of the Atlantic.²²

The Rev. *Ephraim Peabody*, of the King's Chapel, one of the most estimable and popular of our city clergymen, for several years resided here, and between these two last occupants came your humble servant. It was the home of all the early years of my married life, the spot where all my professional "gleanings" were *used up* in "family expenses." I have always felt proud of having made one in so goodly a company. But I trust that I have ever

²¹William Ropes died March 11, 1869. — W. H. W.

²²Abbott Lawrence died August 18, 1855. — W. H. W.

cherished a proper humility. Some years since the late Sheriff Summer, father of our distinguished senator, delivered a lecture on the duties of "Sheriff." He remarked that in England the holder of that office was entitled to the appellation of "High"; "but," added he, demurely making a meek bow to his audience, and placing his hand on his heart, "it is not so in this country, and, *in one instance at least, that title of honor is entirely declined.*" I would withdraw in an equally modest manner on the present occasion.

GLEANER.

XXVI.

REMINISCENCES OF SOMERSET STREET.

August 15, 1855.

MR. EDITOR : — Having finished my call at my own domicile, we will look in for a moment at the next door. One of the lots of the Bowers' estate, on which stand three new brick dwellings, directly opposite the east end of Allston street, measured 80 feet on Somerset street, and extended back over 215 feet on the south line. It was about thirty years the residence of Ebenezer Francis, who also purchased the adjoining mansion house of the late James Lloyd, south of it. On the rear of these lands (with some changes of boundary lines) stand his present mansion house at the north end of Pemberton square, and the two next houses on its west side. With the exception of these three estates all the lots in that square, and also all back of the same from Tremont row to Somerset street, are held under deeds of Patrick T. Jackson. On Mr. Francis' old mansion-house estate, at the corner corresponding with part of No. 10 Pemberton square, now occupied by R. M. Mason, Esq., stood a summer-house, on the very apex of the hill, *seventy feet* above even its present high level. The prospect from this building was one of very great extent, and of the most varied beauty. Charlestown, and many an inland town besides, were in full view towards the north and west, while in front lay spread out before the spectator the thronged streets of the city, the masts of its shipping, the harbor dotted with its graceful islands, and beyond, in the extreme distance, might be seen Nahant, etc.

Mr. Webster, while tenant of the adjoining estate, from time to time came here to gaze on this magnificent panorama.²³ On one occasion he had some friends at dinner, and was desirous that they should participate in this pleasure. Accordingly, the little

²³ It may be well to note here that I possess a large painting, by Salmon, representing this view, executed early in the present century. The stand-point is apparently on Sandy Hill, about on the line where Ashburton place now is, and in the immediate foreground is a summer-house, which I presume to be the one mentioned in the text. An engraving was given in the "Memorial History of Boston," issued by J. E. Osgood & Co., as the frontispiece to Vol. IV. — W. H. W.

gate was opened (the erection of which had been permitted for these visits) and a procession appeared, headed by a servant bearing a waiter with refreshments, and followed by Mr. Webster and his guests. It so happened that on that day a feather-bed had been taken to the summer-house to be opened and readjusted, and the process being in full operation at noon, the building had been left by the servants. *It was, of course, now found to be previously occupied by an assemblage of feathers, which, aided by a high wind, at once flew out to welcome their visitors.* This unexpected reception was a source of much merriment. Chairs and a table were placed in the open air, and I have no doubt that both host and guests found new inspiration from the beauties of this glorious dining-room.

To those who remember these estates as they then stood, the present neat and elegant buildings, and the quiet square which they surround, seem but a poor and paltry substitute. The excavations made throughout this purchase by Mr. Jackson and his associates were absolutely frightful. The estate of Mr. Francis, towering up to such a height next to them, of course could not but greatly endanger any buildings which might be erected beneath it; and, indeed, it could not itself any longer be used with safety. So the summer-house passed away.

When I was in college I had petitioned at the close of my junior year for a room in Holworthy, instead of which I obtained one directly opposite to that which I already occupied. I was quizzed by a classmate, who suggested, as a consolation, the ease with which one of the "goodies" could remove my effects across the entry. An almost equally short and easy removal awaited me in after years as a householder; since, on ceasing to occupy the mansion of "glorious antecedents" in Somerset street, I was transferred to, and still remain a tenant-at-will of, one of the new domiciles²⁴ under, or nearly under, that ancient summer-house.

GLEANER.

²⁴ Mr. Bowditch lived at No. 9 Pemberton square, the most northerly house on the west side. — W.H.W.

XXVII.

ANCIENT AND MODERN LAW.

August 16, 1855.

MR. EDITOR:—The lower portion of Southack's pasture was known as Valley acre. Thus a deed of the Cotton, or Greene estate, after bounding north 311 feet back from Tremont street, *continues the line 295 feet further on the land formerly of Cyprian Southack, now of Mr. John Tyng, or Valley acre, A.D. 1758 (Suff., L. 92, f. 52).* Mr. Drake somewhere speaks of *Valley acre* as identical with or part of *Pemberton square*, which is like speaking of Mt. Tom or Mt. Washington as a valley. The lots of Mr. Bowers were probably measured by a line along the rising surface of Somerset street, and, of course, fell short. A suit arose for a gore of land under a deed which went 100 feet from Howard street "till it comes to the wall of a brick stable." The case was opened by Rufus G. Amory, Esq., for demandant. Chief Justice Parsons said, "Is the land sued for beyond the stable?"—"Yes, Your Honor."—"Well, then, gentlemen of the jury, you must bring in your verdict for the tenant."—"But, Your Honor, I wish to argue the point."—"I cannot hear any argument: *monuments govern measurements.* Call the next jury."

The same principle, thus promptly announced, has just been applied to another estate which happened to belong to the same party. But there is a marked difference between the two decisions. This last case ("Curtis vs. Francis") was in court from 1839 to 1855, and the point decided is; that *under the rule of "monuments governing measurements," a straight line in a deed may be broken off in the middle and one part detached from the other, even to the distance of 40 feet, said detached part thence to continue in a direction varying 15 degrees from the course at the commencement.* The line in Curtis vs. Francis began on Sea street, "at the south-west corner of Capen & Drake's wharf, and from said corner running in a *direction* of about, south, 60 degrees east, bounded north on Capen & Drake's *wharf and flats* to the channel or low-water mark."

Now, to common apprehension, this seems to be one continuous line from street to channel. And in a previous case (*Dawes vs.*

Prentice), where the language was, "from Purchase street to the capsill of the wharf, about 114 feet, and from thence to run down to low-water mark," the Court say, "*There is no change of course indicated, and the construction must be that the line below the wharf is to run the same course as the line of the wharf.*" And here again, to common apprehension, seems a decision perfectly in accordance with the natural construction which first suggests itself to the reader's mind. The Court, however, in *Curtis vs. Francis*, in effect say, "It is true that Drake's wharf is a monument as far as it goes; but then *Drake's flats become a monument*, and it appears to us that Drake and his neighbor mistook their lines of flats; though the deed in question therefore shall be deemed to convey a gore of flats, which we really think belonged to Drake, outside of his wharf, because the deed runs *by the wharf*; yet, when the wharf ends, the line shall be deemed to hop off to what we consider the true line of *Drake's flats*, and thence run by that *monument* to the channel." These ancient grantors and grantees would, I think, be very much surprised if they knew that their one straight line had thus been transformed; and this, too, by the application of one of the soundest rules of judicial construction. *It would, almost, seem that, while the first case was decided rightly in fifteen minutes, the last one has been decided wrongly in fifteen years.*

GLENER.

XXVIII.

THE SPRING HOUSE.

August 17, 1855.

MR. EDITOR : — At the last advices I had fallen into some tan vats which I found on Court street, 122 feet east of Bulfinch street, and which extended 48 feet on that street. Escaping without any serious injury, I rearranged my toilette in some small lots of about 137 feet on Court street, and from 50 to 60 feet deep, reaching to Stoddard's lane or street. All the lands east and south of this range of lots (extending to Tremont row, and on both sides of Howard street) became, in very early times, united in Simon Lynde, who thus unexpectedly turns up again. The extreme corner of Tremont row and Court street was bought by him of Thomas Boyden and Hannah, his wife, in 1662 (Suffolk, L. 4, f. 61), bounded on said Lynde south, on *Sudbury lane east and north*. Now, *Robert Howen* was an original possessor, and we find deeds of John and Israel *Howen* to said Lynde, 1662, 1663 (Suff., L. 4, f. 71 and 141), conveying two-thirds and one-third of "all that land and ground late of my mother, Elizabeth Howen, containing *half an acre*, bounded with Robert Mears south, and some part of it with the street (*i.e.*, Tremont street) easterly and eastwardly, north and west with the house where said Simon now dwelleth, *also a corner bounded west with the land in occupation of Governor Endicott*." We thus learn where to call on His Excellency.

Lynde died in 1687, and we find a deed of Nathaniel Newgate, or Newdigate, and Sarah, his wife (a daughter of said Lynde), conveying, in 1694, this corner estate as messuage known by the name of "*The Spring House*." So that *The Spring Hotel*, at Watertown, had an ancient predecessor in Boston. Hannah, the only daughter of Mrs. Pordage,²⁵ married James Bowdoin, and in 1748 an indenture was made to bar an entail of the part of said lands south of Howard street, and east of Southack's pasture [*i.e.*,

²⁵ George Portage, or Pordage, married Elizabeth, daughter of Simon Lynde, who was thus an heir to part of the estate. Their daughter Hannah married James Bowdoin, senr., father of Governor Bowdoin. — W. H. W.

from the centre of Somerset street to Tremont street]. It is from this source that Bowers got his title to the Howard Athenæum lot, etc.

The large estate east of the Howard Athenæum, measuring 154 feet on Howard street, and 74 feet on Tremont street, was, in 1779, contracted to be conveyed to Ellis Gray, who died (see Suffolk, L. 148, f. 52), and became the property of Theodore Lyman, Senior, in 1785 (L. 154, fol. 121). This lot was designed to have been used by the Brattle Street Society for their church; but, by the present of a bell, Governor Hancock induced them to rebuild on the old site. The brick block on Tremont street presents now a very different aspect from the beautiful green yard or lawn which originally extended in front of Mr. Lyman's mansion. Next south of this comes a lot 85 feet on Tremont street (by 28 feet 6 inches on the south line), which is held under the possession of *Robert Mears*. Mr. Mears died in 1667, devising his land "as adjoining to the grounds of the late Governor Endicott." Part of these lands, in 1709, gets into one *John Staniford* (Suffolk, L. 24, f. 146, 226) [who, it appears, was not contented with the six acres he had bought from Bowdoin square to Chambers street]. He sells to the Rev. Henry Harris, 1763 (Suffolk, L. 37, f. 92), whose executors sell, in 1734, to James *Pemberton* (L. 48, f. 299), in whose family the same remained for half a century, and whose name now flourishes in *Pemberton square*. Another part of Mears' lands is traced through Hodges, Ellis Gray, Colman, etc., to Dr. Samuel Danforth, 1785 (Suff., L. 154, f. 136).

We have seen that Southack's pasture came out on Tremont row, with a front of 103 feet, next south of Robert Mears. This front part, 313 feet deep on Cotton or Sewall,²⁶ he sold off to John Jekyll in 1724 (L. 38, f. 98), and by deed of Jekyll's heirs it became vested in Dr. James Lloyd by deed in 1768 (L. 114, f. 137), which volume being now lost, it was again recorded in 1827 (L. 315, f. 273). Having thus called upon all his neighbors, the Rev. John Cotton, the spiritual father of Boston, will have reason to feel hurt if we do not pay him an early visit.

GLENER.

²⁶ At this point Mr. Bowditch brings the titles of the northerly half of the hill in contact with those traced on the southerly part. The Cotton or Sewall lot is traced in a subsequent article to this point. When Sewall's property was sold by his heirs to William Vassall, in 1758 (Suff., Lib. 92, f. 52), the lines were north on the heirs of John Jekyll 311 feet, and of Capt. Cyprian Southac (then John Tyng,) on Valley Achor 295 feet, and heirs of Bulfinch 20 feet, the whole line from Treamount street up to and across Valley Achor being 626 feet, etc. — W. H. W.

XXIX.

"VALLEY ACRE."

August 18, 1855.

MR. EDITOR:—My attention has been called to an article* in the "Transcript" of yesterday, signed "Valley Acre." That name of course indicates a region at the base of a hill. The line of 311 feet from Tremont street, mentioned in the deed to which I refer as locating it, *extends several feet west of the houses on the west side of Pemberton square, — there begins the 295 feet boundary on Valley acre.* This last-mentioned line extends to a point about 20 feet east of the church in Ashburton place. *Valley acre, therefore, embraced the lands on both sides of Somerset street, to Bulfinch street, etc., and extends down the hill to the low ground on Court street.* This may not be "far from the present northern termination of the iron fence in Pemberton square;" but the very definiteness of that landmark seems to place Valley acre on the *top* of the hill, instead of at and near its *base*, and, as I thought, justified my allusion to a *valley* being located on the summit of Mount Tom or Mount Washington.

GLEANER.

**To the Editor of the Transcript*:—As you are disposed to set all little historical matters right, I beg you will request Mr. "Gleaner" to set his readers right in respect to what is said in the History and Antiquities of Boston about "Valley acre." The readers of his article in the "Transcript" of to-day (16th August) may be disposed, from his statement, to think that the author of the History has made some important blunder in locating the place in question, while he does not locate it himself. Now, if you or your readers, and "Gleaner," too, will turn to page 593 of the History, the following definite statement will be found respecting "Valley acre": "Valley acre, as appears from an early map of the town, was adjacent to a spur of Beacon Hill, which extended north-easterly from the main hill, terminating abruptly not far from the present northern termination of the iron fence in Pemberton square."

It may be as difficult for any one to imagine what this can have to do with Mount Tom or Mount Washington as it was for "Gleaner" to locate VALLEY ACRE.

[NOTE. This was Mr. S. G. Drake.—W. H. W.]

XXX.

COTTON HILL.

August 20, 1855.

MR. EDITOR: — In the Book of Possessions, p. 9, is “ Mr. John Cotton, 1 house and garden and about *half an acre* with *an acre* adjoining, bounded with Sudbury streete (*i.e.*, Tremont row) east, Edward Bendall north, the Centerie Hill west, Mr. Bellingham and Daniel Maud south.” Bendall was, as we have seen, the predecessor of Cyprian Southack. This possession of an acre and a half in the very heart of the town was a noble allotment to its first citizen, — one from whose place of residence in England our city derives its name. It does not savor of the small salaries sometimes so grudgingly paid to their pastors by our smaller towns. Looking directly down Queen street, or Court street (which, notwithstanding its later glories, for many a long year was known as Prison lane, from the prison standing where the Court-House does now), it rose to a great height, forming a sort of outpost to Beacon Hill. It soon acquired the name of Cotton Hill.

Mr. Cotton died, and by will, proved January 27, 1652–3, he says, “ and because the south part of my house, which Sir Henry Vane built whilst he sojourned with me, he by a deed gave it at his departure to my son Seaborne, I doe yrefore leave it unto him as his by right,” etc. He also speaks of his wife’s “ house and garden in the market-place in Boston in Lincolnshire.” This item does not, however, come within my present investigations. If his wife and children die without heirs, “ or if they shall transplant themselves from hence into Old England, then my will is, and I give the farm at Muddy River one-half to the College, one-half to the Church.”

It seems that beside his son Seaborne (quaintly so named from his place of birth) he left as devisees, Sarah, wife of Richard Mather, Mariah, wife of Increase Mather, and John Cotton, who, in 1664, confirmed this devise to Seaborne (Suff., 6, f. 233), and he sells this part to John Hull (Suffolk, 6, f. 226). Their original parchment deed is in my possession, — the recent gift of my friend Hon. James Savage. He doubtless thinks, “ good, easy man ” —

that if I die first it is to revert to him," but I shall instruct my heirs to hold on. In 1677, Nicholas Paige bought out the residue of the estate (Suffolk, 10, 107 and 108), bounded north in part on Simon Lynde (*i.e.*, Bulfinch's Pasture), and in part on the house and land where Governor Endicott last dwelt, and in 1682 this also was bought by Mr. Hull (L. 12, f. 216). So the *mint-master* succeeded the *clergyman*: here being another quite respectable investment of his surplus "shillings" before mentioned. This last deed bounds north on Lynde in part, and in part on "*the land of Edward Shippen, formerly the dwelling-place of Governor Endicott.*" Now, *Shippen* was owner of Southack's two-acre pasture. So we have incidentally made sure of the exact domicile of the governor, having, as it were, "shot him flying."

Hull died 1683, and the division in 1684 embraced "the lands in Boston, formerly Mr. Cotton's, at *Cotton Hill*, commonly so called, with all the buildings that now [are] or shall be erected thereon" (L. 13, f. 92). By this instrument, the premises, after the death of Hull's only daughter, Hannah, wife of Samuel Sewall, are settled on her issue.

Richard Bellingham's possession, p. 5, is "also a garden lot, bounded on Mr. John Cotton and Daniel Maud north, the highway east, John Coggan south." He died 1672. His only son and heir, Samuel, being about to marry Elizabeth Savage, widow, made a marriage settlement by deed to John Shelton and Edward Hull, 1695, and said Elizabeth appoints to said Samuel Sewall in 1697 (Suff., 14, f. 439), "a piece or parcel of land, being on the side of a hill adjoining to a hill formerly belonging to Mr. Cotton." It is described as about *half an acre*, and is bounded north on said Sewall, east on said Sewall, and in part on land belonging to the First Church, etc. This I suppose to be one of the most venerable marriage settlements on our records.

Samuel Sewall survived his wife Hannah, and died in 1729, and under division deeds (L. 45, f. 183), the premises came to his daughter Judith, wife of William Cooper, and after her death were conveyed to William Vassal, 1758 (L. 91, f. 76). In 1790 Patrick Jeffrey became owner. He married Madam Haley, widow of Alderman Haley of London, and sister of the celebrated patriot or demagogue, John Wilkes. A cabinet or secretary, and various articles of plate, formerly of Madam Haley, with the Wilkes

* Mr. Bowditch died first, April 16, 1861, aged fifty-six. His friend, James Savage, the venerable antiquary, though twenty-one years his senior, lived twelve years longer, dying March 8, 1873, aged nearly eighty-nine years.—W. H. W.

arms, were purchased at the sale of Mr. Jeffrey's effects by Ebenezer Francis, Esq. Her occupation of this estate was in a style of splendor of equipage, and of living, etc., utterly at variance with the puritanic austerity of its first possessor, or the simple dignity of his noble guest, who, having served his country with a self-devotion like that of the Regicides, like them died a *martyr* in her cause, by suffering a *traitor's* death.

GLEANER.

XXXI.

COTTON HILL. — (*Continued.*)

August 21, 1855.

MR. EDITOR:—Rich widows who marry young husbands too often find their hearts grow heavier and their purses lighter. Such was the experience of Madam Haley, who was worth 70,000 guineas when she became Mrs. Jeffrey. She returned to England, and died there in her husband's lifetime. He remained in America. He was, I believe, a brother of the celebrated Scotch reviewer. There is a form of conveyance well-known to the English law, called "Lease and Release," where a *lease* is first made for one year, and then the fee simple is *released*. A very large number of valuable estates in Boston and elsewhere, bought with Mrs. Jeffrey's money, were thus conveyed, and simultaneously the same were re-conveyed, so as to vest the titles in him and his wife, and *the survivor*. This is the chief, and, indeed, almost the only instance that I remember in our records, of this roundabout way of effecting what is more simply done by our common deed. Survivorship between husband and wife ensures a salutary control over the issue of the marriage, and makes it certain that the wife surviving shall have her own again. This circumstance satisfied me that Mr. Jeffrey was a man of honor. I have known the wife's estates so conveyed as to shift the fee directly into the husband, in which case the wife would only get dower in her own lands. This arrangement never appeared to me to be a striking proof of disinterested affection.*

Patrick Jeffrey, in 1801, conveyed to the town a strip of his land** taken for Somerset street, which was extended to Beacon street (Suff., L. 277, f. 297), and then for \$36,000 conveyed this estate

* [See the note at the end of this article. — W. H. W.]

** It seems proper to premise here that William Vassall, who was the purchaser of the Sewall lot, was a Mandamus Councillor and refugee. In 1787 (Suff., Lib. 189, f. 270) he sold this estate to his nephew, Leonard Vassall Borland, of Boston, for £4,000. This sale seems to have been illegal, and in 1790 (Suff., L. 179, f. 241) John Lowell, as attorney for William Vassall, sold the property to Patrick Jeffrey. The exact bounds will be mentioned later. — W. H. W.

to Jonathan Mason, 1802 (L. 203, f. 32), back to Somerset street. The portion west of Somerset street, *i.e.*, back to Bulfinch's pasture, or the church, he sold for \$12,000 to Asa Hammond, 1804 (L. 210, f. 138). Mr. Mason conveyed for \$41,000 to Gardiner Greene, in 1803 (L. 205, f. 252). And now the original splendors of the estate seem to return. For nearly thirty years it remained the mansion of Mr. Greene, the wealthiest citizen of his day, one who held high public and private trusts, and was conspicuous for his intelligence, integrity, and good judgment. The house had no remarkable architectural pretensions of any kind; but the natural beauties of the site, improved by taste and art, made it altogether the most splendid private residence in the city.

Some of the most agreeable reminiscences are associated with the elegant festivities of that old mansion. Belonging to one of our first families, Mr. Greene, connected himself by marriage with others equally distinguished. One wife was a sister of the late John Hubbard; another (his widow, still living among us) is a sister of Lord Lyndhurst, formerly Lord Chancellor of Great Britain. The son of the celebrated artist, Copley, and a Boston boy, he gained for himself entrance into the peerage, and attained the highest of judicial honors. He is still living,²² *the Nestor of the House of Lords*, taking an active part in public affairs. No one could have said with more truth than himself, what was said by a distinguished predecessor on the Woolsack, when repelling what he deemed an insult: "As presiding officer of this House, as keeper of His Majesty's conscience, as Lord High Chancellor of the realm, *I feel myself as respectable, aye, and as much respected, as the proudest peer I look now down upon.*" Only a year or two since Lord Lyndhurst instituted inquiries as to the operation of the system of Registry of Deeds in Massachusetts and New York, with a view to its introduction into England. His autograph note, expressing his satisfaction with the answers which I prepared to his questions, I value far more than any professional fee that I ever received.

The west line of Cotton's estate coincides with the east line of Bulfinch's pasture, *i.e.*, of the Church estate in Ashburton place. Its north line ran 630 feet in a straight course to Tremont row, including the house-lots on the north side of Ashburton place, and

²² John Singleton Copley, born at Boston, May 21, 1772, was the son of the distinguished artist of the same name. He was Lord Chancellor, 1827-1830. He was twice married, but left only daughters at his decease, Oct. 12, 1863. His sister, Mrs. Greene, died Feb. 1, 1866, aged 95, leaving numerous descendants. — W. H. W.

the whole central portion of Pemberton square, embracing the fronts of all the houses on its west side, south of Mr. Francis' lands, and corresponding portions of the houses on its east side, both north and south of the entrance from Tremont row. Cotton's estate (with Bellingham's united³⁰ in the Sewall family), measured east on Tremont row 163 feet, or nearly to the south line of the present entrance to the square. It had various jogs outward on its southerly line, greatly enlarging its contents, adding perhaps 90 feet more to its average width, for a depth of over 300 feet. The possession of *Daniel Maud*, measuring 137 feet on Tremont row, by about an average depth of 80 feet, was also bought by Mr. Greene. Hezekiah Usher sold it to Thomas Scotto, 1645 (L. 2, f. 193), "bounded west and north on Mr. John Cotton." It passed through Leblond, Erving, Brimmer, Bowdoin, Waldo, Walcott, Winthrop, and was conveyed to Mr. Greene for \$31,000 in 1824 (L. 293, f. 196). This gave Mr. Greene in all a front of 300 feet on Tremont row. He died in 1832, and his 90,000 feet of land are appraised at \$142,000, say at \$70,000 per acre.

³⁰ This phrase is a little obscure. In his next article Bowditch seems to trace all of Bellingham's *front* lots without touching Hull or Sewall. Probably he refers to the fact that Sewall bought part of Bellingham's back lot, Oct. 11, 1697 (Lib. 14, f. 439). It was adjoining to the hill formerly belonging to John Cotton, and was bounded north by Sewall; east partly by Sewall, and partly by land belonging to the First Church, now occupied by Mr. John Bayley; south by land lately of Humphrey Davie, and west by land lately of Capt. John Wing. It was about half an acre. — W. H. W.

MADAM HALEY.

August 23, 1855.

MR. EDITOR:— Your careful correspondent, and my very good friend, "Gleaner," is mistaken in his opinion that Patrick Jeffrey, the second husband of Madam Haley, was a *brother* of Francis Jeffrey, the Scotch reviewer. Francis Jeffrey was the son of George Jeffrey and Henrietta, daughter of John Loudoun. Their children were Margaret, Mary, Francis, John, and Marion.* John came to Boston, and joined his mercantile *uncle* Patrick, who became the husband of Madame Haley.† The maiden name of Madam Haley was Wilkes. She was the sister of the celebrated John Wilkes, of the North Briton.† My mother was an intimate friend of this lady, during her halcyon days as Madam Haley, and for some time after she became the victimized wife of Patrick Jeffrey, who treated her with great brutality, and to escape from whose persecution she finally returned, in comparative poverty, to England. There is a sequel to the history of this unhappy lady's residence here, which I have heard related more than once in our family circle, and which I suppose may be relied upon as correct.

* Cockburn's Life of Lord Jeffrey, Vol. 1, pp. 1 and 2.

† Ibid., p. 50.

Pemberton square was laid out in 1835, just twenty years ago. Had it been named *Cotton* place, for the old clergyman, it would have been thought that Mr. Jackson so named it because it was a distinguished *manufacturer*. If called Vane place, that name,

Mrs. Haley had a daughter, who, against her mother's wishes, became affianced, and, in disregard of her menaces of repudiation, ultimately married to a physician of Boston named Brown. If I do not misremember, he had been a pupil of Dr. John Jeffries. He was quite respectable, but obscure and penniless. He had, I believe, acquired considerable notoriety by a dissertation on yellow fever. After his marriage, Madam Haley kept her word, and obstinately refused to have any commerce with the daughter of her husband. They finally settled in London, where he became very respectably established in good practice.

It must be here stated that the second marriage of his sister was exceedingly offensive to John Wilkes, and he was said to have expressed himself with intemperate severity, and even with bitterness, in regard to her and Mr. Patrick Jeffrey.

Unable to bear any longer the harsh and ungrateful usage of a brutal husband, whose promises to love and to cherish had less reference to her person than to her property, Madam Haley returned to England. On her arrival in London she instantly repaired to the house of her brother, Mr. Wilkes, and sent in word by the servant that his sister, Mrs. Jeffrey, was at the door. After some delay, a chilling message was delivered: "*Mr. Wilkes had once a sister in America, Mrs. Haley, but he knows nothing of Mrs. Jeffrey.*" After this cruel repulse she retired to some private lodgings in the city.

There is an old, homely distich—

"A son is a son, till he gets him a wife—
A daughter, a daughter all the days of her life."

The imputation conveyed in the first line I personally know to be false. With a few unnatural exceptions the averment in the second may be true. Ere long the tidings of the mother's arrival reached the ears of Mrs. Brown and her husband. They instantly repaired to the lodgings of this unhappy lady,—not to oppress her broken spirit and subdued and softened heart by a formal tender of their services, but impulsively to rush into her arms, to ask her forgiveness, to take her forthwith to their abode, to cheer her declining years, to make up for the time that had been lost, by redoubling their efforts to make her happy! In the home of this devoted daughter Madam Haley passed the rest of her days. During her residence here her town-house was on "Pemberton's Hill," and her country-house on Milton hill,—the situation occupied subsequently by the Hon. Jonathan Russell.

SIGMA.

We sent a proof of the above to "Gleaner," who has furnished the following reply:—

"I stated it merely as my *belief* that Mr. Jeffrey was *brother* of the Scottish Reviewer, and admit that "Sigma" is right in making him out an *uncle*. I cannot but regret that one who, by his *conveyances*, seemed so considerate as to the right of the old lady in case she should survive him should have so brutally tried to break her heart and kill her off in his lifetime; thus, as it were, defeating the manifest intent of the instrument he had executed."

GLEANER.

[Most Bostonians will remember that "Sigma" was the well-known signature of Lucius Manlius Sargent, who wrote many antiquarian notes for the "Transcript," a part of which were republished in 1856 under the title of "Dealings with the Dead. By a Sexton of the Old School."—W. H. W.]

however spelt, seems to be associated with qualities of mind not the most respectable. *Faneuil* place would have become *Funnel* place. It was at first christened *Phillips* place, its southerly portion being held under deed of Jonathan *Phillips* to Mr. Jackson. But as there was a prior "Phillips place" within a few rods, old Mr. *Pemberton* was called in, who once owned on the extreme outskirts of the square, at its north end. *Bellingham* place would have been much more appropriate, or even "St. Botolph's square," the old town of Boston, in England, deriving its name from this patron saint. A "jingo tree," the only one in this part of the country, was successfully removed to the Boston Common, by the Beacon-street mall, nearly opposite Mrs. Greene's present residence, where its dark, glossy foliage must often remind her of the departed grandeur and beauty of her old homestead.

GLEANER.

XXXII.

FIRST CHURCH LOT, AND PETER FANEUIL'S HOUSE
ON TREMONT ROW.*August 22, 1855.*

MR. EDITOR : — We have seen that Gardiner Greene's estate was made up of parts of the original possessions of Cotton and Bellingham, and also the little Maud possession. Other portions had been sold off by Mr. Bellingham, and one of those became vested in Rev. John Davenport, who dying in 1670, and his son John in 1676, the ultimate heirs conveyed for £170 to Robert Sanderson, Senior, Henry Alline, and Joseph Bridgham, deacons of the First Church of Christ in Boston, A.D. 1693 (Suff., 16, f. 133), "all that certain messuage or tenement, with the appurtenances and land thereto belonging, situate in said Boston, bounded at the east end with the street or highway leading from Prison lane (*i.e.*, Court street) up to the Common or training-field, on the west end, with land heretofore appertaining to Richard Bellingham, Esquire, deceased, of which this land hereby granted was once a part; on the south side with the garden and land of the late Humphrey Davy," etc., the north boundary being in part on land of the late John Hull.³¹

This lot measured 68 feet in front, 62 feet in rear, $156\frac{1}{2}$ feet on north line, $137\frac{1}{2}$ feet on south line. Its location is just about in the centre of the lots on Tremont row (south of the entrance to Pemberton square), and it includes the back portion of three estates on the east side of Pemberton square. It remained the property of the church for nearly a century, being conveyed in 1787 to Sampson Reed (L. 160, f. 166). It became the property of Wm. Phillips in 1805, at a cost of \$15,000. Upon this lot stood a most ancient-looking building, with windows of very small panes of glass.³² I

³¹ Part by garden of Robt. Howard, deceased, now appertaining to Gabriel Barnon. — W. H. W.

³² Shaw says that Gov. Bellingham's house stood on the spot where Faneuil built. But this seems an error, as the north lot of Bellingham (sold to the church) had the house on it, and the lot sold Davie is land only. Hence we may presume that this old house was Gov. Bellingham's, and that Davie built his own stone house, which he sold to Faneuil. — W. H. W.

have heard it stated, and have reason to believe it true, that when it was pulled down a chair was made from some of its timbers for the late Hon. Judge Davis, as possessing great antiquarian interest under the idea that it was in this house that Sir Harry Vane so-journed. It was within one of being the right house; but a miss is as good (or as bad) as a mile, in such matter. I trust that it has not been presented to and officially accepted by the Historical Society as a genuine article. Few who drop in at Mrs. Mayer's³³ to take an ice have any idea how *venerable* is the source of her landlord's title. And I certainly regret the necessity of depriving so pleasant a locality of any of its ancient honors.

Mr. Bellingham had still retained a lot 140 feet on Tremont street, 120 feet in rear, with an average depth of 325 feet — quite a pretty residuum. This he conveyed to our friend Humprey Davy, 1663, by deed not recorded till after 47 years (L. 25, f. 166). "A parcel of land being part of an enclosure lying and being in Boston between the *old burying-place highway* east, the land and orchard of Joshue Scottow south, the ground or orchard of Davis, widow, west, and the *land of said Bellingham*, being the other part of said enclosure, north."

We met with Mr. Davie among the pastures south of Cambridge street, and by the same mortgage to secure a marriage settlement, 1683 (L. 13, f. 72), and foreclosed, the title to both estates got vested in his widow. She conveys to her two sons, 1706-1710 (Suff., 23, f. 9, 10), having at the last date picked up a third husband. And here I take occasion to remark, that invariably, if a woman own a large landed estate, she is sure to keep getting married from time to time, as often as death affords an opportunity, thus making great embarrassments in tracing titles. These two Davies conveyed it for £800 to Andrew Faneuil, 1710 (L. 25, f. 168), with "a stone dwelling-house" thereon, who died in 1737, devising to Peter Faneuil, of immortal memory. On his death, in 1742, the inventory appraised his "mansion-house, garden, out-houses, and yard, at £12,375." So that it was doubtless a fine old mansion, worthy of such an owner, and such it continued to be during its whole subsequent occupancy by the Phillips family. In 1772 it became the property of John Vassall, who being an unfortunate "conspirator," the Commonwealth pocketed £2,400 by

³³ Mrs. Mayer's noted confectionery store was given up to other uses not long after this date. — W. H. W.

selling to Isaiah Doane, 1783 (L. 141, f. 2). Wm. Phillips bought it in 1791 (L. 169, f. 125).

These two estates, thus united in William Phillips, embrace about the southerly two-thirds of Tremont row and all the houses which front north on Pemberton square. *Wm. Phillips* devised these estates to his son William, 1804, who died in 1827, devising them to his son Jonathan; they, at this latter date, being appraised at \$90,000. They were sold to Patrick T. Jackson, in 1835, for \$115,000. He paid for the Greene estate \$160,000; for the Lloyd or Jekyll estate, \$42,000; for the Bordman estate, on Somerset street, \$20,000; for the Bartlett or Lawrence estate, on Somerset street, \$34,205. These different purchases, with the expenses of grading, etc., must have exceeded \$400,000, — a speculation at that time of unexampled magnitude. *We, however, have lived to see a single individual* (President Quincy), at the advanced age of more than 80 years, undertake with characteristic energy, and carry through to a most successful conclusion, a private enterprise, in which, however, he engaged solely from the most public-spirited motives, which involved at the outset, as the first cost of the land, an expenditure of \$561,000, upon which land he has erected various elegant warehouses, thus far surpassing all the associated enterprises of the capitalists who, through the agency of Mr. Jackson, bought and laid out Pemberton square.³⁴

GLEANER.

³⁴ The reference is to Josiah Quincy, the earlier mayor of the name. He was the originator of the plan by which the great market was built, and the city became the owner of a wharf at the end thereof. When it was decided to sell this wharf, Mr. Quincy remonstrated ineffectually. He believed in its prospective value, and most unexpectedly, as he said, he became its purchaser at auction, tempted thereto by the low price. He offered it back to the city at cost the next day, but the offer was declined. It is believed that the profit proved equal to his expectations. Mayor Quincy died July 1, 1864, aged 92 years. — W. H. W.

XXXIII.

THE HOUSES OF REV. JOHN OXENBRIDGE AND
ELDER JAMES PENN.

August 24, 1855.

MR. EDITOR:—Leaving the homestead of Peter Faneuil, on which every Bostonian must look with interest, we come next to the Pavilion and the Albion, or the estates at the corner of Tremont row and Beacon street. John Coggan, in 1658, died seized of an orchard in Tremont street, measuring 76 feet in front, 69 feet 8 inches in the rear, bounded north on Richard Bellingham or Faneuil 322 feet, and south on *James Penn*, the ruling elder. [It is under this will that Harvard College acquired a tract of marsh in Chelsea, known as Coggan's marsh for 175 years, and finally sold, I believe, to Dr. Edward H. Robbins.] In his inventory this orchard is appraised at £30. Coggan's executrix sold to Joshua Scotto, 1659 (L. 3, f. 347), and he to Col. Samuel Shrimpton, 1670 (L. 6, f. 214). Shrimpton owned Noddle's island. He and his wife, Elizabeth, conveyed to John Oxenbridge, 1671 (L. 6, f. 275), "all that orchard and garden which I lately bought of Mr. Scotto, and which he bought of Mr. Coggan's executrix, *with a dwelling-house thereon, built by said Scotto*, bounded on James Penn south, Richard Bellingham north, James Davis west, and the street east, containing *half an acre* (with a gore of land bought of Elder Penn by said Scott)." After a deed and reconveyance, 1672, 1673 (L. 7, f. 334; L. 8, f. 238), Rev. John Oxenbridge, pastor of the First Church, died seized, and by will proved, January 9, 1674, devised to his daughter Bathshua, wife of Richard Scott, and on certain contingencies to the First Church.

The inventory values this dwelling-house, orchard, and garden, at £550. Another daughter, Theodora, married Peter Thacher. Humphrey Davy, as attorney of Scott and wife, conveyed to said Peter, 1683 (L. 12, f. 356), and certain children of said Peter release to him, 1706-7 (L. 34, f. 218), as bounded east on the back street leading from Prison lane to the Common. In 1707 it was conveyed to Samuel Myles (L. 24, f. 98), who sold to George Cradock, 1728 (L. 42, f. 284), and he to John Jeffries, 1733 (L.

47, f. 302), who devised the same in tail to Dr. John Jeffries, son of David Jeffries, under whom the title came to Samuel Eliot. Dr. Jeffries, besides his more substantial professional reputation, acquired much celebrity by ascending in a balloon. This tract came within a very few feet of Somerset street, and embraced the Pavilion Hotel and the court and hall adjoining and behind it; also the rear moiety of John L. Gardner's estate on Beacon street, and most of the rear moiety of the club-house estate adjoining.

James Penn, the ruling elder, owned, at least as early as 1658, the corner lot, measuring 70 feet on Tremont street, and bounded south on Beacon street. The west boundary was on James Davis. Now the fee of Somerset street and land west of it, and also a small gore east of it, are conveyed, in 1677, by Mrs. Davis, to her son-in-law, John Wing, as bounded east in part on Davie, *i.e.*, the Phillips estate, and in part on James Allen. James Penn, by will dated in 1671, devised to said Allen "an enlargement of his ground to the pear tree," so that Allen must have acquired part of Penn's land before that date. Penn devised to his kinsman, Col. Penn Townsend, his "dwelling-house and land," extending from Tremont street 150 feet on Beacon street, to Allen's land. Townsend's executor sells, 1750, to Samuel Sturgis (L. 84, f. 8), and after passing through John Erving, Jr., Gilbert Deblois, Nathaniel Coffin, and John Amory, the premises came to Samuel Eliot, and were for many years his well-known mansion-house estate. It embraced the Albion and the block of brick houses west of it. The deed to Sturgis bounds south *on the lane leading to the Almshouse*. Rather an humble original designation, by the way, for what is now the first street in Boston!³⁵

Rev. James Allen, by his deed of settlement, in 1706, and his will in 1710, so often referred to, vests in his son Jeremiah "all that mansion-house and land wherein I now dwell, bounded south on the street leading towards the Common, east on Penn Townsend and on Peter Thacher, north on said Thacher, and west on Thompson." On Jeremiah's death, in 1741, the same was settled by indenture, in 1747, on his son Jeremiah (L. 77, f. 79), who died in 1755, leaving several children. Among them were James (on whom it was settled in 1784 as "a *stone house* and land belonging to it, situate in ——— street, £550 — Prob. Records, 83, f. 551), and Jeremiah,

³⁵ The Almshouse was on the corner of Park street and Beacon street, the latter being of course the "lane leading to" it. The Granary occupied nearly the whole side of Park street, and the town lot butting on the graveyard reached as far as the Athenæum lot. — W. H. W.

well-known as high sheriff of the county, who bought the same of his brother, 1789, 133 feet on Beacon street (Suffolk, 193, f. 142). Sheriff Allen died in 1809, and the celebrated law case, "*Ex parte Allen*" (as to period of time within which courts will grant license to sell real estate of deceased persons), had its origin in this locality. This stone house was a very remarkable edifice in its day. It embraced the front land of Mr. Gardner's house and of the club-house.

The late David Hinkley, in 1810, became purchaser of all this Allen land, excluding a gore sold off to Mr. Eliot, and including the rear lands which had been bought of Eliot. He tore down the stone house, purchased new stone, imported glass, etc. But the war coming on, an entire stop was for a time put to his arrangements for building. After the war he proceeded to erect the present double stone mansion. Having charged on his books \$100,000, he carried the remaining items of their cost to profit and loss. It was conjectured that each house and land cost him not less than \$75,000. The easterly of these houses was sold in 1820, for \$40,000; in 1827, for \$30,500, and in 1828, for \$29,000, at which price it was purchased by Joseph Peabody, Esq., of Salem, as a residence for Mrs. Gardner.

The westerly house was occupied by Mr. Hinkley during life, and afterwards was owned and occupied by the late Benjamin W. Crowninshield until his death, when it became the club-house, so well known to "*Young America*" for its elegant appointments; or, as deserted wives sitting at home might prefer to call them, *its seductive attractions*.³⁸

Often as I walk along Tremont row, the din of travel is hushed, the gay and bustling throng disappears; I am again among the days of old, in that quiet "back streete leading from Prison lane," which meets the "lane that leads to the almshouse." On the one side of me are those beautiful enclosures of orchard and garden — the homes of *Cotton*, *Davenport*, *Oxenbridge*, and *Penn*; while, on the other side (then as now), I behold the silent burial-place where those three faithful pastors were at last laid side by side together. There *was* not then a lovelier spot within the limits of Boston. There *is* not one more hallowed by the memories of those who, in their day and generation, were its noblest citizens. GLEANER.

³⁸ Since then, as is well known, this club-house has been sold, and is now the headquarters of a flourishing religious association. The Somerset club, with an enlarged list of members, has obtained another and equally famous "stone house," the former residence of Hon. David Sears, on Beacon street. — W. H. W.



P.S. — In meeting again the Thacher family, I would remark, that in a late article³⁷ I suggested that Mrs. *Margaret* Thacher, buried in King's Chapel burying-ground, in 1693, appeared by a deed in 1708, to be a tenant of a lot "one rodd square," on Copps hill. My friend George M. Thacher, Esq., disturbed at the idea that this lady had such a troubled conscience as not to have lain quietly in her grave, at my suggestion examined the deed referred to, and finds there, *Mary* instead of *Margaret*. This mistake of transcribing must have been from the fact that my mind reverted to one who was a distinguished person in her day, thus slighting another as to whom I was, and am "a know-nothing." Like General Jackson, I honestly assumed the responsibility of *removing the deposits*. Events proved him to have been in the right, and me to be in the wrong.

G.

³⁷ *Ante*, p. 45. — W. H. W.

XXXIV.

JAMES DAVIS'S OR MAJOR THOMPSON'S TWO-ACRE PASTURE.

August 25, 1855.

MR. EDITOR: — Tearing myself away reluctantly from the club house, we will walk into James Davis's two-acre pasture, adjoining. We find that Johannah Davis, his widow, conveyed to her son, John Wing, 1677 (Suff., 10, f. 218), "all that parcel of ground, containing two acres, near Century hill, bounded west on John Fairweather, north on land late in the tenure of Mr. Cotton, or his assigns, east on Mr. Humphrie Davie and Mr. James Allen (*i.e.*, the club-house, etc.). This pasture was of a most peculiar triangular shape. Its front on Beacon street was only $13\frac{1}{2}$ feet. The west line was 279 feet, and in the rear it widened to 295 feet. It extended back within two or three feet of Ashburton place. This north line reached 163 feet east of Somerset street, and yet Somerset street, as now laid out, actually cuts off half of what little front the pasture originally had, leaving only a width of 5 feet on Beacon street, west of Somerset street.

John Wing mortgaged the same (with other lands) to John Richards, *who is known as the worshipful John Richards, perhaps because he was Treasurer of Harvard College*. This mortgage was made to him in 1677, as attorney of Major Robert Thompson (Suff., 10, f. 219). Thus we get at once among the "Upper Ten." Major Robert Thompson always resided in England. It appears that he had a son Joseph, of Hackney, who had a son Joseph, of the Inner Temple, London, who was ancestor of William Thompson, of Eltsham. These lands, with various others²⁸ of great value, seem to have been entailed by the "major," and to have been so inherited for eighty years. In 1758, proceedings were had to bar the entail (L. 93, f. 125), and the various estates were then conveyed in fee simple. This pasture was purchased by Joseph Sherburne, in 1759

²⁸ Among these lands were the Thompson farm, in Chelsea, and the building called "Boston Building," or, later, "Brazer's Building," on State street. See the Old State-House Memorial, page 25. — W. H. W.

(Suff., 93, f. 193), who sold off a gore to William Vassall (the predecessor of Mr. Greene), in 1768 (L. 118, f. 170). After his decease the premises became the property of Jerathmiel Bowers, who, dying in Bristol County, transmitted the same to his son *John Bowers*. We have before seen that John Bowers bought all the lands north of Mr. Cotton's, and he thus acquired all the lands south of Mr. Cotton's and opened *Somerset street* through his estates, both from Howard and from Beacon streets, the street being extended by the town across Jeffrey's or Cotton's intervening land.

Under this title are derived the two estates on the east side of Somerset street, which were included in the Pemberton square speculation, also a triangular gore of the club-house estate, while on the west side of the street it includes most of the Church estate, and of the houses on Ashburton place north of it, and also a narrow portion of the houses south of it. Of the two lots east of Somerset street, the southerly one, 120 feet 8 inches wide, is traced through Bowers and Dr. Thomas Bartlett, to John Hubbard, in 1817, and from him, in 1834, to Abbott Lawrence, who conveyed to Patrick T. Jackson. The north lot, 50 feet wide on the street, is traced through Bowers, Isaac Rand, Jr., James Lloyd, Jr., Asa Hammond, and Robert Turner, to William H. Bordman, in 1814, who died seized in 1826, and whose heirs conveyed to Mr. Jackson in 1835. This house is doubtless well remembered by many besides myself, as the scene of the agreeable weekly receptions of our accomplished townswoman, Mrs. H. G. Otis.

Through the southerly of these two lots is laid out the present outlet from Pemberton square into Somerset street, the portion south of that avenue being purchased by the late Mr. Crowninshield, as an addition to his estate on Beacon street.

Mr. Jackson became also the purchaser of the rear part of the lands at the north end of Pemberton square, on which he erected a large and elegant dwelling-house, for his own occupation, now belonging to John A. Lowell, Esq.³⁰ The view from the north windows of this mansion is, I think, the finest in the city. Mr. Jackson after this sale resided in a much smaller house on the east side of the square, and at his death owned and occupied that on the west side, now belonging to Joseph Coolidge, Esq.

Sixty-eight first-class brick dwelling-houses and stores were erected on Pemberton square and the streets adjoining, and thus

³⁰ This house was turned into offices some ten years ago, and in 1882 was leased by the city to be occupied as the head-quarters of the Police Department.—W. H. W.



the taxable property of the city was greatly increased. We have got the "*almighty dollar*" instead of a natural eminence with its terraces or "hangings" (as they are called in the deeds), which, like the Boston Common, was a daily gratification to our citizens, and on which strangers stopped to gaze with admiration and delight.

Mr. Lawrence was one of Mr. Jackson's associates in this enterprise. And, in bidding a final adieu to this locality, I cannot forbear to acknowledge my deep professional indebtedness to the early and long-continued patronage of them both. And among the dearest treasures of memory will be the consciousness that I have always enjoyed the personal friendship alike of him who was so suddenly withdrawn from us, in the midst of his usefulness, several years since, and of him upon whom the grave has just closed amid the regrets of our community and of the nation.

GLEANER.

XXXV.

HAD MADAM HALEY A DAUGHTER?

August 27, 1855.

MR. EDITOR:—My friend "Sigma" caught me tripping a day or two since, in the opinion that Patrick Jeffrey was a *brother* of the Scotch Reviewer, and he proceeded to narrate so beautiful an episode of the filial conduct of a daughter of Mrs. Jeffrey (by her first husband, Alderman Haley), that I felt really glad of my mistake. There is a little maxim, however, very much acted upon in life, called "Tit for tat," and I must confess that I take no slight satisfaction, malicious though it be, in disclosing some important inaccuracies in the story which he has told so well.

Dr. Samuel Brown, who received a prize for an essay on yellow fever in 1799 or 1800, did *not* marry a daughter of Mrs. Patrick Jeffrey. He married Nancy Jeffries, the daughter of Dr. John Jeffries, by a first marriage. This marriage was opposed indeed, *not*, however, by Madam Haley, or Mrs. Jeffrey, but by the bride's step-mother, Mrs. Jeffries. Dr. Brown and his wife did *not* go to England, and of course he did *not* get into successful practice in London. On the contrary, being afflicted with what was called a fever sore, his leg was amputated a few years after his marriage, and the operation proved fatal in a short time. His beautiful but unfortunate wife did not long survive him. They left two daughters, who were adopted by Mrs. Stone, of Windsor, Vermont, a sister of Dr. Brown. In that town these two ladies still reside, the one single, the other married. Dr. Brown was one of the earliest converts to Swedenborgianism in Boston.

It is possible that Madam Haley had a daughter who married some other "Brown," and that they behaved in the exemplary manner so touchingly described by "Sigma." His anecdote is too good not to be true.*

GLENER.

* "TIT FOR TAT."

August 29, 1855.

MY DEAR "GLENER":—This is all very fine. But there is another saying, which both of us might well wear for a phylactery—"rams' horns if I die for it." The tenor

of your brief notice would lead one to suppose that *I* also had a "malicious satisfaction" in having "caught" *you* "tripping." Not at all. You were desirous of being *historically accurate*; and I supposed you would be pleased to be set right, even in a matter of trivial importance, and, in return for my kindness, you avow that you have a "malicious satisfaction" in pointing out the errors of my story! Well, I do believe the devil is in everybody.

Now, dear "Gleaner," it is cruel of you to interfere with me, when I try to be pathetic, who never interfere with you, when you labor so very hard to be facetious! But you have spoiled my story; and you know, I dare say, how much easier it is to mar an interesting tale than to make one.

In the outset I stated, very courteously, that you were mistaken in your "*opinion*" that Patrick Jeffrey was the *brother* of the Scotch reviewer. You admitted your error; but, by way of rams' horns, appended the remark, that you only stated as your "*belief*." Subtle this, rather, — your "*belief*," but not your "*opinion*"!

Now, what have I done? I have put nothing forth as "*Historical*." I have recited a narrative which I heard many years ago; which I certainly believed to be true, and of which I simply said I *supposed it might be relied on*. If you are right in your statements, and I dare say you are, the combinations of my tale clearly resemble some which may be found on the pages of heathen mythology; and all I can say is, that, since you own that you have enjoyed so much "*malicious satisfaction*" in breaking it up, you are welcome to the pieces.

In another article of yours, my dear "Gleaner," you allude to a slight mistake which you made between the names of *Mary* and *Margaret*. I was reminded, by this misnomer, of an inscription which I read, in 1840, upon a marble monument, in Norfolk, Virginia. It was rather an expensive concern, and erected over the grave of the wife of Captain Kennedy, of the United States Navy. After stating the name, age, relation, time of departure, etc., of the deceased, at the bottom were the words, "*Erratum, for Margaret read Martha*." I am not quite sure as to both of these names, but well remember the erratum, the first I fancy, that ever figured, *eo nomine*, on a gravestone.

Yours truly,

SIGMA.

XXXVI.

ROBERT TURNER'S GREAT PASTURE ON BEACON STREET AND HILL.

August 28, 1855.

MR. EDITOR:— Leaving “Major” Thompson’s triangular pasture, we come upon an extremely large estate of Robert Turner, which must have extended on Beacon street from a point five feet west of Somerset street to and behind the State-House land, to a point 19 feet east of Hancock street. In tracing the Cambridge street pastures of Middlecott, etc., we find that they bound south on Turner.

William Pell, in 1655, sells to Robert Turner (Suff., L. 2, f. 154) $1\frac{1}{2}$ acres of land between said Robert’s land east, said Robert’s land and land of Thomas Millard south, Jabez Heaton west, and Jeremiah Houchin north. [Houchin owned Middlecott’s pasture, through the centre of which runs Bowdoin street.] Jabez Heaton, in 1655, sells to said Turner (Suffolk, L. 2, f. 153) $1\frac{1}{2}$ acres in Centery Hill, between the land of said Robert east and south, the land of Millard south, the land of Edward Hutchinson, Senior, west, the land of Joshua Scottow north, and Jeremiah Houchin north. [Scottow owned the pasture east of Hancock street.] John Leverett, in 1663, conveys to said Turner (Suffolk, L. 9, f. 308) one acre of land in the new field bounded on land late of Nathaniel Eaton east, on Thomas Millard south, on Bosworth west, and on Scotto north. Nathaniel Eaton married Elizabeth, widow of William Pell. [Bosworth owned 5 acres, the easterly moiety of which, extending from 77 feet west of Belknap street to 19 feet east of Hancock street, he sold to Cooke.]

We thus get *four acres* into Robert Turner, the deed in 1658 bounded in part on land *already his*. The other southerly abutter, named in the foregoing deeds, *Thomas Millard*, is the source of title to the State House and land west of it, so that the land *already* Robert Turner’s must have been the whole front part of the land on Beacon street to the State House. It is, therefore, not unlikely that Turner may have owned in all as much as *eight* acres.

He died in 1664, and his will contains various devises to his children. To *Joseph* he gives a parcel of ground on the Century Hill, to be in breadth at the front 3 rods, and lie next to my son John's division, and to run through up to Mr. Houchin's (*i.e.*, Middlecott pasture). Also to my son *Fairweather* a house and land on Centurie Hill, "formerly delivered into his possession"; also a strip of ground about 3 rods in breadth adjoining to Mr. Lyne's (*i.e.*, Lynde or Bulfinch's pasture).

My will is that *Ephraim* shall have a share at Center Hill next to my son Fayerweather, to be 4 rods broad at the (groat?) and run through with other divisions. Also to *John* he gives "a portion next to Ephraim's 3 rods broad equal to Joseph's." He then gives certain legacies to be paid out of the rents *or sales* of the *Center Hill* and other lands. The inventory mentions the house confirmed to Fairweather and land, £200. The new frame and all the land at Century Hill, £200.

Penelope, executrix of Robert Turner, in 1666, conveyed to said *Ephraim* (Lib. 5, f. 188) $\frac{3}{4}$ of an acre, bounded south-easterly on the highway to the Common (*i.e.*, Beacon street), north-west on Jeremiah Houchin (*i.e.*, Middlecott pasture), north-east on said *Ephraim*, south-west on John Turner. She also conveyed to said *Ephraim*, in 1667 (Lib. 5, f. 40), another $\frac{3}{4}$ of an acre, bounded south-easterly on the highway to the Training place (*i.e.*, Beacon street), south-west [north-west] on said Houchin, and on Joshua Scottow [who owned the 4-acre pasture west of Middlecott's], north-east on said *Ephraim*, south-west on Joseph Turner. In this deed are recited the devises in the will of her husband, and it is stated that this conveyance is an enlargement of Ephraim's portion, and that *the alterations made by her deeds to the children were such as tended to the satisfaction of all the brethren*. [Her deeds, numerous and complicated as they are, have certainly not proved equally satisfactory to posterity.] She conveyed to her son *Joseph*, 1670 (Lib. 6, f. 200), all that division that lyeth next the hill, as now divided; bounded with the Common, south, 5 rods and 6 feet; on John Turner, 31 rods and $5\frac{1}{2}$ feet; on Jere. Houchin's pasture, north, 4 rods and 3 feet, and on said John Turner, east, $29\frac{1}{2}$ rods and 3 feet, with a new dwelling-house on it — and said *Joseph* conveyed to said *John*, 1671 (Lib. 7, f. 313), about half an acre, bounded north on Houchin, deceased; south on my land, bordering on Centery hill, west, and on said John, east. Said Penelope conveyed to said *John*, 1670 (Lib. 6, f. 206), 2 acres of land at Centre hill, bounded on Joseph Turner, east; on Richard Cook, west [*i.e.*, a line 19 feet

east of Hancock street], Joshua Scottow, north, and Thomas Millard, south, with a parcel of land $\frac{1}{2}$ a rod broad and 30 rods long, bounded east on said John, west on said Joseph, north on Scottow, south on the Common, *bordering also on the highway going up to the top of the hill, on the top of which hill lyeth a parcel of land belonging to the town of Boston, i.e., 6 rods square. Ephraim Turner conveyed to John Fairweather, 1681 (Lib. 13, f. 450), all my parcels of land at Beacon Hill, between the land of said Fairweather and my brother John Turner.*

The result is, that John Fairweather, by devise and conveyances, gets some large portions of this estate, the easterly of which measured, as we shall find, about 260 feet on Beacon street, by 490 feet in depth.

In conclusion, I feel that I owe an apology for the unrelieved dulness of this article, and trust that my next may prove more lively and interesting. In the meanwhile, as an antidote, buy and read "Sidney Smith's Life."

GLEENER.

OUR GREAT MEN OF 100 YEARS AGO.

XXXVII.

August 30, 1855.

MR. EDITOR : — In my last article we leave in John Fayerweather (1664–1681), among other lots of his deceased father-in-law, Robert Turner, a tract of 260 feet on Beacon street, located 5 feet west of Somerset street. We have seen that immediately east of that street David Hinckley erected a costly double stone mansion, both parts of which have always been occupied by some of our wealthiest citizens. In the easterly one, Benjamin Wiggin, brother of the London banker, Timothy Wiggin, resided for several years. His wife (Miss Fowle, of Watertown), was the most beautiful woman of her day. It was in her honor that Robert Treat Paine, the poet, offered the sentiment, "The *fair* of other towns, the *Fowle* of Watertown." The estates west of Somerset street we shall find to have belonged to other citizens of the very highest consideration.

John Fayerweather conveyed, in 1703, the westerly part of his land to Jonathan Pollard (L. 21, f. 251), "a lot bounded south on the highway to the Common 135 feet, west on Gamaliel Rogers (who had succeeded John Turner), 490 feet 8 inches, north on Middlecott and Lynde 161 feet, east on Sewall (*i.e.*, Cotton Hill estate), 119 feet, south on my homestead, 73 feet, east on the same to the highway." Pollard, in 1709 (L. 24, f. 258), sold the same to Samuel Lynde (who thus owned through from Cambridge street to Beacon street). Lynde, retaining a portion in the rear as an enlargement of his, afterwards Bulfinch's, pasture, conveyed the residue to John Barnes in 1721 (L. 35, f. 189). After various deeds and reconveyances, Barnes died seized in 1739, and, in 1746, his executors conveyed to William James (L. 72, f. 22). In 1756, it was conveyed by Hon. John Erving to James Bowdoin. Both the grantor and grantee were at the very head of the aristocracy of Boston 100 years ago. Bowdoin also acquired of Bulfinch a gore of land in the rear.

John Fayerweather died in 1712, seized of the easterly part of his land, 124 feet wide on Beacon street, by about 300 feet deep; appraised at £230. The easterly moiety, 62 feet on Beacon street

became vested in William Holberton and wife, 1712-1727, whose heirs in 1740 convey to Benjamin Green (L. 62, f. 42). It became the property of Joseph Sherburne 1745 (L. 74, f. 143). Sherburne owned the two-acre pasture east of it, to which this purchase formed an addition, giving him in all 67 feet on Beacon street. The title is derived from him through Jerathmeel Bowers and his son John, to David Sears, 1803, and, having been for many years his mansion-house estate, is now covered by two elegant and costly brick dwelling-houses, erected by his son and heir, Hon. David Sears, so well-known as one of our most wealthy and public-spirited citizens.⁴⁰

The westerly moiety (62 feet on Beacon street) was conveyed to Samuel Sewall, in 1731 (L. 46, f. 7), who failed in 1742, when it became the property of Edward Bromfield (L. 65, f. 164), whose executors, in 1763, conveyed the same to William Phillips (L. 99, f. 210). He died seized, in 1804, devising to his son William, on whose death, in 1827, it became the property of a grandson. It is under this title that the Freeman Place Chapel and the two houses in front of it are held. All these successive owners have been among the first families in our city.

The Bowdoin estate is one of great interest and importance, and will be hereafter separately noticed. The houses of Lieut. Governor Phillips and of Governor Bowdoin were both placed back from the street, being approached by a high flight of stone steps. At a dinner party once given by the latter a rain occurred, and the weather becoming cold the steps were found to be entirely covered with ice. Under any circumstances there would have been almost a certainty that life or limb would be put in jeopardy by an attempt to *walk down*; and the guests had probably done justice to the generous wines of their host,—a circumstance which tended to increase the difficulty. At last they all concluded to *sit down* on the upper step, and so hitch along from step to step in a perfectly *safe*, though, it must be confessed, in a somewhat ungraceful manner. Probably, indeed, there never was an occasion where so many of our first citizens voluntarily took such low seats; or where the dignity of small clothes, silk stockings, and cocked hats was sacrificed to necessity or expediency in a more amusing manner.

GLEANER.

⁴⁰ Hon. David Sears died January 14, 1871, aged 83 years.

XXXVIII.

THE NICETIES OF LAW.

August 31, 1855.

MR. EDITOR : — In this country, when a very complicated affair is spoken of, it is said that " it would puzzle a Philadelphia lawyer." I am inclined, however, to doubt the justice of the compliment — if it be one — which is here implied. In sound legal attainments and exact logical acumen the late Jeremiah Mason has, I think, never been surpassed. And when professional chicanery was to be resisted, no one could wield more effectually than he, in the cause of truth and justice, the most subtle contrivances of the law. We learn that in the middle ages schoolmen debated whether two or more spirits could stand on the point of a needle. The affirmative of this proposition is abundantly proved every day among us, as a practical matter, in legal decisions respecting our estates and property. In a recent article I alluded to two adjudications, both of them good law ; one that if a line runs by Mr. A's wharf, and *thence* to low-water mark, it *must* be straight throughout, because no change of course is indicated. In the other, a line running by Mr. A's wharf *and flats* to low-water mark was held *not* to be a straight line, although one express course was prescribed throughout its whole extent.

In 5 Pickering's reports, 528, *Hayden vs. Stoughton*, it was decided, under a will proved in 1806, that a devise to a town for the purpose of building a school-house was a devise on condition that the estate vested accordingly in the town, and that on a subsequent breach of condition the estate passed to the *residuary devisee*, and not to the heir, there being an interest in the testator not specifically devised, depending on the performance or non-performance of the condition. The Court adopt as good law an English decision of Chief Justice Willes, confirmed in a subsequent case of *Doe vs. Scott*, and they thus state the rule, viz. : " That if the testator has not given away *all his interest* in the land, so that if he were to die immediately, something would remain undisposed of, it is to be presumed that he intended to give the remainder in such lands to the residuary devisee." And Judge Putnam says :

"It is clear that the testator did not dispose of his whole interest to the inhabitants. The inhabitants might not choose to perform the condition, and so *might forfeit their interest*. The testator might have limited over that interest specially, *i.e.*, he might have made a further specific devise of it to some one else on breach of condition. If he had done so there can be no doubt that it would have been a good limitation of his remaining interest. He made no limitation over. The inhabitants became seized of the fee-simple conditional, and the *contingent interest* not otherwise disposed of was disposed of by the *residuary clause*."

In 21 Pick. Rep., 215, *Austin vs. Cambridgeport*, a testator had by deed granted an estate on condition that it should always be used for church purposes, and then died, and by will, proved in 1819, devised one-fourth of all his remaining estate to his widow. A breach of condition occurred in 1833. She sued and recovered the estate thus devised to her. The Court cite with approval this earlier case, and remark that the right of the testator was "a contingent possible estate." They then add: "That such an interest is devisable in England, seems well established by the case of *Jones vs. Roe*, 3 T. R., and the cases there cited. Chancellor Kent states the rule to be that all contingent possible estates are devisable," etc. And accordingly they say: "It is a contingent interest in the testator, not disposed of by any other part of the will, and therefore falls within the residuary clause disposing of all the estate not before devised."

But in the Brattle-street parsonage case, just decided, *Mrs. Lydia Hancock*, by will proved in 1777, devises her mansion-house estate on condition that it should always be occupied as a parsonage. On breach of such condition she directs that it shall "*revert to her estate*," and proceeds *specially* to devise the same over to Governor Hancock, and also makes him her general *residuary* devisee. To me this case appears (to use an elegant expression) to run on all fours with those above alluded to, yet the Court decide (as elaborately reported in the newspapers), that such a devise over is too remote, and therefore void in law; that nothing passes to such devisee, and that such limitation over being too remote and void, *carries the condition with it*, and thus the church gets the absolute title *free of all condition*. How these decisions can stand together is to me inexplicable, unless they had been put upon the special construction of the particular statutes of devises in force at the different periods, when the testator died, which seems to be ex-

pressly negatived by the approving quotations of the general doctrines of the English law and of Chancellor Kent.

Further, there is a legal maxim, that "surplusage does not vitiate"; and another that the law aims rather to *preserve than destroy*, and acts on the Latin adage "*ut magis valeat quam pereat.*" Now, observe how beautiful an application of these rules is made in this last decision! A testator makes a devise which is void or a nullity. The rule respecting surplusage would, at least, one would suppose, prevent its having any *noxious* effect. But not so. Had the testator not undertaken to make this void devise, his *heir-at-law* would have an unquestionable right to recover the estate on breach of condition; but the mere nugatory attempt to devise it away from the heir-at-law is construed not so as to *preserve* his right, but, on the contrary, is held to *destroy* it. Perhaps even the mere making of a *residuary* devise (unavoidable though it seems to be) would be equally fatal. The only rule, indeed, practically illustrated by this decision is the Scripture one, "To him that hath shall be given." In other words, *to the church to whom the testatrix meant to give only a qualified interest, the law has given the whole.*

It is undoubtedly true that if an absolute fee-simple estate is devised to one, and on a certain contingency the same estate is devised to another, such executory devise over must be upon a contingency to *happen within a limited time* (a life or lives in being and 21 years, etc., after), *otherwise it will be too remote and void.* On the other hand, a conditional fee-simple may be granted or

"THE NICETIES OF LAW"—AGAIN.

September 3, 1855.

MR. EDITOR:—The case of the proprietors of the church on Brattle square *vs.* Moses Grant *et al.*, which your correspondent, "Gleaner," favored with a notice in your paper of last Friday, under the appellation of the "Brattle Street Parsonage Case," and the decision which, unfortunately, fails to receive his approval, was argued before the Supreme Court in March, 1853. The opinion, "as elaborately reported in the newspapers," was printed from the original manuscript of Judge Bigelow, and may, therefore, be considered as authentic. The reasoning of "Gleaner" upon the law, as stated by him, although plausible, shows to one who understands the case that he neither comprehends the principles of the cases on which he comments, nor the decisions which he condemns; but as the estate is shortly to be sold, and his public denunciation of the "opinion" may possibly have an injurious effect upon the sale, it is proper, perhaps, to make a slight effort towards the reestablishment of the Supreme Court in the good estimation of the community, now so seriously shaken by two assaults from "Gleaner."

The case of the parsonage received during the two years it was under advisement the special attention of each judge, as well as their united consideration in frequent

devised, and *whenever (at however remote a period) the condition is broken*, the heirs-at-law (or devisees as it would seem) may recover back the estate as being an interest remaining in the testator or ancestor. Such, at least, I think, was the belief of the profession, and the doctrine of our courts, prior to the Brattle-street parsonage case. In view of the directly opposite results arrived at under circumstances seemingly identical, it must be confessed that the laws of the land, upon which our dearest rights of person and property depend, are composed of *filaments of the most gossamer fineness*. These remarks are preliminary to some account of the Bowdoin estate, which presented a most conspicuous legal battlefield about a dozen years ago.

GLEANER.

consultation. There was no disagreement amongst the Court upon the final result. Neither the Chief Justice, whose service on the Bench for more than twenty-five years has so established his judicial reputation, both at home and abroad, for profound and accurate knowledge, that neither the "highest living authority on estates," nor any other authority, can shake it, nor that member of the Court whose deep knowledge of the principles and doctrines of the common law was well established while "Gleaner" was using up his gleanings "to pay family expenses," nor either of the other four able lawyers who compose the Court, and who have increased upon the bench the reputation they brought with them from the bar, dissented from the principles or result of that decision. It is, therefore, submitted to the public that the decision of the Court is *at least* as likely to be correct as that pronounced against it in the article alluded to. In many matters connected with estates the authority of "Gleaner," it may be admitted, is conclusive. But when a title depends upon the construction of a deed, as in *Curtis vs. Francis*, or upon principles of the common law not the subject of frequent investigations, as in the Brattle-street case, there is not much hazard of error in assuming that the Supreme Court of Massachusetts may be correct in the law which they declare — especially as they carry into the decision of a case no pride of opinion upon a preconceived theory.

Z.

XXXIX.

THE BOWDOIN ESTATE.

September 3, 1855.

MR. EDITOR :— There has never been in our city a better battlefield for legal ingenuity than the Bowdoin estate. I have mentioned that John Erving, in 1756, conveyed to James Bowdoin. In order not to facilitate too much the business of conveyancing, I will not state where the deed is recorded. Several hours may be profitably spent in looking for it, and several hours more will, I think, be required for finding the deed to Mr. Erving. The deed to Bowdoin conveyed a lot 137 feet on Beacon street, bounded west on land late of widow Rogers, now of John Spooner, 490 feet, etc. It also included the lower lot of Middlecott's pasture, bounded west on Middlecott or Bowdoin street 78 feet. Dr. Bulfinch conveyed to Mr. Bowdoin a gore of land in 1772, for the record of which a like long search may be instituted. The main lot was bounded on the westerly line about 40 feet east of Bowdoin street.

Governor Bowdoin died in 1790, devising to his widow for life, with remainder to his son, James Bowdoin, who purchased of D. D. Rogers (1803–1807, L. 206, f. 261 ; L. 219, f. 226), two strips of land, the north one measuring 156 feet, and the southerly one 110 feet, on Bowdoin street. After which his land bounded south on Beacon street 177 feet 6 inches west on Bowdoin street, 110 feet north on other lots sold off by Rogers, 42 feet west on the same, 200 feet, south on the same 40 feet 6 inches, west again on Bowdoin street about 257 feet, north in the rear on Samuel Parkman's estate at the southerly corner of Allston street, 90 feet 10 inches, east on Bulfinch's pasture, and on the Phillips estate to Beacon street. The north part of this land is the source of title to the block of four houses on Bowdoin street.

The residue, or his mansion-house estate, he devised, in 1811, to his nephew, James Temple Bowdoin, for life, with remainder to his issue successively in tail-male. In 1836 conveyances were made to bar the entail, and vest the land in said James Temple, for life, with remainder to his son of the same name, in fee-simple. Now, James Temple, *Senr.*, was born in London, in 1766, and subsequently naturalized here, and his son was born in Rome, in 1815.

I have in my volumes copies of elaborate opinions of Mr. Justice Jackson, of Mr. Webster, and of the late Wm. C. Aylwin, as to the question of alienage — of entail — of conditions of residence in this country, annexed to the devise in tail, of the effect of the deeds for barring the same, etc. James Bowdoin, a son of the late Thomas L. Winthrop, died without issue. He was the next subsequent devisee in tail before the ultimate devise to *Bowdoin College*. And now came the tug of war between James Temple Bowdoin, claiming to have barred the entail, and the College denying his title *in toto*.

An array of learned counsel were employed on each side. *Possession* was the important point, as the premises were vacant, and accordingly one morning a wooden edifice appeared, the fairy growth of the night, tenanted by an adequate supply of hired men to guard its precincts. On a subsequent night it vanished as summarily as it came, to the great amusement of the public, who enjoyed the sport as they would have done a street fight between two canine opponents, though this one was conducted with entire good-humor and urbanity. At last a compromise was made (1843). Joint deeds were given, the College receiving three-tenths of the proceeds. This estate embraced six houses on Beacon street, five on the south and four on the north side of Ashburton place, and also the New Jerusalem Church; and it may be remarked that residents in this neighborhood can within the distance of little more than one hundred feet have their choice of four kinds of preaching, — Baptist, Scotch Presbyterian, Congregationalist, and Swedenborgian.

Governor Bowdoin was a man of great ability and firmness, who rendered the Commonwealth important service, under very trying circumstances. The suppression of Shay's insurrection devolved upon him, and of course, in certain quarters, entailed upon him much odium. His antagonist, Governor Hancock, was the popular idol of the day; but posterity has, I think, rendered a more just and discriminating verdict as to the relative merit of these two chief magistrates. On one occasion they both appeared to advantage. Governor Bowdoin offered to give his large lot at the corner of Tremont Row and Howard street to the Brattle-street Society, for the erection of a church. Governor Hancock, and with him a majority of the society, decided not to accept the gift. He thereupon subscribed £200 for rebuilding on the old site, and Governor Hancock gave, besides a bell, the sum of £1,000 towards the same object.

GLEANER.

XL.

"CONTEMPT OF COURT."

September 4, 1855.

MR. EDITOR:—Your correspondent "Z" seems to regard me as quite *presuming*, in expressing a doubt of the correctness of certain decisions of our Supreme Court. He dwells with much emphasis on the indisputable talent and learning of its several members, and announces the long period of time which they had devoted to the consideration of the case alluded to. Admitting that there is a province in which I may legitimately form and express an opinion, that might be entitled to some weight, he yet considers that I wholly transcend that province when I undertake to judge *what land* is conveyed by a deed, or *what title* passes by a will. I really conceive that with these two deductions there is nothing left for a conveyancer, these being *the two* fundamental matters of inquiry involved in *every* investigation which he is called upon to make.

I deem it *the right*,—aye, more than that,—*the duty* of every loyal member of the profession fairly and candidly to criticise any legal decision which he shall think erroneous, from however high a tribunal it may emanate; and although it may happen to be founded on a deliberation of *two*, or even of *fifteen*, years. I certainly yield to no one in respect for the law or its ministers. As to the Judge who delivered the opinion specially commented upon I will say that I have always felt for him a sincere personal regard,—that, although the youngest member of the Court, I think him one of the ablest,—and that, considering the decision as emanating for them all, I do not believe that the views arrived at could possibly have been *stated* with greater legal precision, clearness, or accuracy. It was a master-piece of technical reasoning.

In the case of *Curtis vs. Francis*¹ I conscientiously believe that

¹THE LAW AGAIN.

MR. EDITOR:—"Gleaner" informs us that he shall die in the faith that the case of *Curtis vs. Francis* will be overruled one of these days. I will not inflict on your readers an argument against this opinion of "Gleaner's." Such a discussion would be quite as

no person ever *did read*, or ever *can read*, the deed in question without the most entire and absolute conviction of the *actual* intent of the grantor to sell, and of the grantee to buy, a tract of land included within parallel straight lines. I believe that such is the *legal* effect of the conveyance, — that (as I have said elsewhere) a line is *one* line, and that a line broken off in the middle, and one part detached from the other, is as impossible in the true construction of a deed as in a proposition of Euclid. I shall die with unaltered convictions on this point. I have, therefore, clearly and unequivocally expressed them. *This decision, I am persuaded, ought to be, and eventually will be, overruled.* If I know my own heart, I should have expressed the like disapproval of it had its

amusing, and, perhaps, as profitable, as a history of the Cambridge-street pastures. The case has not yet been reported; but if "Gleaner's" own statement of the point decided is correct, it is very apparent that he will be the solitary martyr to his faith. Why "Gleaner" should travel so far out of his path to attack the decision in the Brattle-street Church case was, at first, mysterious. It is no longer so.

We remember the old story of a traveller down-east, who, one day, saw a child sitting on the roadside, blubbering over a hay-cart upset in the highway. "Why don't you call your father instead of whimpering over your misfortune?" said the traveller. "I would," replied the boy; "but the — of it is, that dad is under the load."

No one doubts the right of "Gleaner," or any other competent person, "fairly and candidly to criticise any legal decision which he shall think erroneous"; but sarcasm and ridicule are unbecoming weapons to use against such a tribunal as the Supreme Court of Massachusetts, — especially in criticising a decision where "no labored examination of authorities" had been made by the critic, and his knowledge of the case is, by his own confession, exceedingly superficial.

The opinion of the late Mr. Justice Hubbard upon the will of Mrs. Hancock, to which "Gleaner" so complacently refers, I have always been informed was not at all upon the point of the validity or invalidity of the devise. It was only that the interest of each heir, whatever it might be, was transferable by assignment. This information may be erroneous; but something better than hearsay will be required to prove that "Gleaner" is justified in boasting of so illustrious a predecessor.

It is true that some years since a bill was filed by the deacons of the church, praying for leave to sell the parsonage estate, and that the bill was dismissed. "Gleaner's" great "respect for the law and its ministers" will be gratified by learning that the dismissal of the bill was not predicated "on a directly opposite construction of the will from that to which the same Court have now arrived," nor yet upon a mere matter of form. The Court thought they had no authority to order a sale of the estate and a reinvestment of the proceeds upon the same condition.

I do not and never did doubt "Gleaner's" paramount authority upon some matters connected with estates. But, as I said before, without denying the value of his opinions, there are other points in conveyancing, as to which, in my very humble judgment, the authority of the Supreme Court, it is not impossible, may be full as great, if not greater than that of their critic. Certain it is that the deliberate opinion of these six able judges, who separately and together for two years carefully considered and *thoroughly understood* this difficult and important cause, cannot be impaired in public estimation by sneers and sarcasms, however distinguished the source whence they proceed. In the present instance the "vigor of the critic's bow" by no means equals the "venom of his shaft."

Z.

effect been to put into Mr. Francis's possession an estate of \$50,000 instead of depriving him of it.

In relation to the Brattle-street parsonage case I had never been consulted directly or indirectly. I had merely heard that the estate was devised on condition. I had formed no "preconceived opinion" on the question involved, except, indeed, such as arose from the satisfaction which I felt when I learnt how the case had been decided. *My entire sympathy and good wishes were with the Society.* But it seemed to me, on reading the decision, that, like the other case, it was *founded on erroneous application of a sound rule of law.* I have made no labored examination of authorities. I have merely referred to two prior adjudications, and presented certain general views which happened to occur to me, *as showing the nice and shadowy distinctions known to the law of the land.* I had never conversed with any of the parties or counsel opposed to the Society. I am now, however, authorized to state that a written opinion exists, in their possession, drawn up by the late Mr. Justice Hubbard, before he became a member of the Bench, which adopts the precise construction of this devise, at which I arrived without knowing that "I was following in the footsteps of so illustrious a predecessor." *That each of us should have adopted the same "plausible view" is a coincidence by which, I confess, that I feel much gratified.*

Still further. Only a few years ago a bill was brought in behalf of the same church, for leave to sell this very land. The bill was dismissed by a formal decree. The opinion then delivered has never been published, and its precise grounds are unknown to me. It would seem that it must have been on *a directly opposite construction of the will from that to which the same Court have now arrived,* unless it turned upon some matter of form, which can hardly be supposed, as a Court of Equity will always allow any amendment in matters of form which will enable them to do justice between the parties.

I had not, of course, the slightest wish or intention of prejudicing the sale of the estate. I supposed that the rights of all persons interested had been finally and irrevocably fixed by a decision to which all had been made legally parties, and that the law was, at least, well settled as to them and as to this parcel of land, as fully as it is in a capital case after the accused has been acquitted or executed.

Infallibility is the attribute only of the judgment-seat of God.

Already there exists a large volume devoted to the enumeration of "cases doubted and overruled."

We have no Judge *Kane* in this latitude. Imprisonment in the sacred cause of human freedom, under the odious doctrine of *contempt of Court*, — an imprisonment perpetuated by judicial etiquette — has made the jail of *Passmore Williamson* the most honorable abode in *Pennsylvania*. The ermine of *Massachusetts* has upon it no such spot or blemish. *Her* judges need no champion — certainly not one who resorts to personalities. They may, indeed, well challenge the just criticism of the world. Far distant be the day when they shall feel themselves *above* listening to the honest sentiments of even the humblest citizen!

GLEANEER.

XLI.

CONTEMPT OF COURT.

September 6, 1855.

MR. EDITOR :— In a recent article we have seen that the doctrine of contempt of Court, when enforced by an arbitrary and unprincipled Judge, is as utterly subversive of personal liberty as was the Bastille, with its *lettres de cachet*, in the worst days of the French monarchy. But the subject has its comic as well as its serious aspect.

The late Sheriff Henderson and Mr. James Allen, a descendant of the Rev. James, were particular friends. On a trial of great interest Mr. A. had taken his seat within the bar, and others followed his example, so that the Court ordered it cleared for the convenience of the attorneys. The sheriff spoke to Mr. Allen, and then returned to his seat. He, however, presuming on his acquaintance with the sheriff, did not move, but began making knowing grimaces at him, deprecating his farther interference. Instead of treating it as a joke, the sheriff exclaimed to the Court, "May it please Your Honor, I am insulted!"—"How? And by whom?"—"Mr. Allen is making up mouths at me!"—"Who saw him?"—"I," said a bystander.—"Mr. Clerk, swear him." The witness was sworn, and testified accordingly. The Judge said, "Mr. Sheriff, commit Mr. Allen for *contempt of Court*." He was accordingly taken off to a lockup, which already contained two thieves and vagabonds. They swore that he should not come in unless he *treated*. He was thus mulcted with a supplementary fine, after which he enjoyed their agreeable society till the hour came for the adjournment of the Court, when he was brought in, placed in the malefactor's seat, suitably reprimanded, and discharged. He doubtless went home deeply impressed with a sense of the majesty of the law, the vindication of which had required a resort to these dignified proceedings. He made no more smiling grimaces, at least for that day. In becoming a *wiser*, he became also a *sadder*, man.

GLEANER.

XLII.

D. D. ROGERS'S $2\frac{3}{4}$ ACRES.*September 7, 1855.*

MR. EDITOR :— We have already seen that John Fayerweather held and disposed of a lot 260 feet on Beacon street, and 490 feet deep, held under his father-in-law, Robert Turner — *or about 3 acres*. There was still left of this Turner estate, between the Bowdoin estate and the State-house lot, a tract measuring 190 feet on Beacon street, 490 feet on the east line, 140 feet in the rear, and westerly 571 feet *on the highway leading to the monument and on Beacon hill (i.e., the entrance of Mt. Vernon street)* ; the contents, according to the estimate of the deeds, being $2\frac{3}{4}$ acres more. John Fayerweather, not satisfied with his other lot, takes a portion of this also. Thus he and his wife convey to Benjamin Alford, 1685 (L. 13, f. 329), *three-fourths of an acre*, bounded *south on the Common*, west on the highway leading to the hill, north and east on John Turner. Alford's executrix for £350 conveys to her son John Alford, 1715 (L. 32, f. 94), with a slight perversion of the points of compass, bounded east on the training-field, south on the way leading to Beacon hill, west and north on Gamaliel Rogers's heirs. John Alford makes a trust settlement by way of jointure, 1718 (L. 33, f. 95). John Alford, of Charlestown, sells to William Molineaux, 1760 (L. 95, f. 233), bounded in front on Bacon street 100 feet, then runs north a little east 367 feet [bounded by a highway leading to Beacon Hill. — Ed.], then east bounded on John Spooner 78 feet, then south to the street 342 feet [this side also bounded on Spooner. — Ed.] — *a plan being recorded*. William Molineaux built a mansion-house, quite a splendid one for those days, and died 1774. It was appraised at £600.

The Commonwealth, in 1782, conveyed the same to Daniel Dennison Rogers, as the confiscated estate of Charles Ward Apthorp. (1782, L. 135, f. 6.) Said Charles Ward Apthorp, as administrator of Molineaux, brought an ejectment to try title as late as 1780, but unsuccessfully. (Suffolk, 175, f. 67.)

This land bounded both north and east on the land of John

Turner. He died in 1681, empowering his executor to sell his "house and land at the upper end of the common or training-field, and the land at Beacon hill"; who accordingly sold to George Monk, 1681 (L. 12, f. 114), a dwelling-house and two acres of land, at the upper end of the Common, bounded south-east on the Common, and running back to Mr. Middlecott's land, and from the corner post of Mr. Fayerweather to Mr. Wharton's land. (Middlecott and Wharton owned pastures on Cambridge street.)

Monk sold to Gamaliel Rogers, 1690 (L. 14, f. 403), bounded south-east on the highway between it and the almshouse 90 feet, then south-westerly on Ben. Alford 340 feet, south-easterly on same 76 feet, then on Col. Samuel Shrimpton 204 feet "by a parcel of posts on the side of Beacon hill," in the rear on Mr. Middlecott, etc., 140 feet, and then 490 feet on Fayerweather (*i.e.*, the Bowdoin estate). Thus we find that as early as 1690 the *almshouse* (in which our distinguished townsman, George Ticknor, now lives) had been built on part of the Common. Gamaliel Rogers died 1709. His executrix sells to Ebenezer,⁴¹ 1739 (L. 59, f. 139), who conveyed to Margaret Hurst 1739 (L. 73, f. 28), and the title passing through Joseph Gerrish, Charles Paxton, and John Spooner, gets into Thomas Bromfield 1763 (L. 99, f. 237), and, being subsequently traced through Barlow Trecothick and John Tomlinson, Charles Ward Apthorp, James Ivers, this lot, like the other, gets united in Daniel Dennison Rogers.

He laid out Bowdoin street in continuation of Middlecott street, selling off lots fronting 200 feet on the east side of that street, and the remaining lands north and south of those lots to James Bowdoin, whose large ownership on that street, as we have seen, afforded the town the opportunity of robbing Mr. Middlecott, by changing the name of his street into Bowdoin street. The land west of Bowdoin street was retained by Mr. Rogers. He erected upon it the mansion-house which he continued to occupy till his death. It is the source of title to all the block east of the State House, and also to sundry houses toward Derne street.

One of the houses east of Bowdoin street, built on land sold by Rogers, became the property of the late Thomas J. Eckley. It remained vacant for very many months, no tenant being found who would pay the rent demanded. An amusing incident happened from this circumstance. Certain females, of something more than

⁴¹ This surname was omitted in the Transcript—The deed is to Ebenezer Wilder of Lancaster, gen^t.—W. H. W.

doubtful character, took possession in a quiet manner, without paying any rent, and held their nightly orgies unsuspected. At last one of their visitors got by accident into the next adjoining house, and so alarmed its quiet and orderly female inmates that an explanation ensued, and the domicile which had been honored by these temporary occupants became again vacant.

GLENER.

XLIII.

ALLEGORICAL — NOT HISTORICAL.

September 9, 1855.

MR. EDITOR: — If my arrow, *after hitting its mark* (as I think it did), glanced off and hit your correspondent (Z) I can only say that I did not know that he was there, and assure him that he need be under no apprehension from "the *venom* of the shaft."

No one laughed more heartily than myself at his amusing allegory. I think the following, though certainly devoid of the like humor, is more in accordance with the facts. "Father" wanted to send a valuable load, and, like everybody else, employed *Shaw & Co.'s Express*, who are known to be trusty, intelligent, and experienced persons. His intention was that it should be taken to the end of Drake's wharf, and *thence over a bridge built many years ago in the same straight line, and communicating with the flag-staff on Castle island*. The driver thought he saw this bridge ranging in a southerly instead of an easterly direction from the end of the wharf, and, from this *mistake of monuments*, drove overboard. I happened to be looking on, and, instead of scolding or "blubbering," forthwith tried as hard as I could to rescue the goods. But the vehicle upset about forty feet south of the wharf, and, the wind and tide being against me, I was obliged to abandon them to the sharks in that vicinity.

Seriously, Z doubts that Mr. Justice Hubbard ever gave a written opinion as to the Brattle-street parsonage case adverse to the *last* decision of the Court. The columns of a newspaper are not the best vehicle for publishing such a document; but I assert, as a person of veracity, that this will *was* submitted to him for an opinion as to what title was in the Society, and what title was in John Hancock, and who were entitled under him to claim the estate, and in what proportions, in case the condition should be broken. His opinion occupies three closely written pages. The result at which he arrives is, that the title of the church was on a *valid condition*; that the devise over was a "conditional limitation," and the right under it vested in John Hancock. He proceeds to consider the descents, deeds, and devises since his death.

and examines their legal bearing upon the title and estate thus given to Mr. H. The Court have decided that there is *no* condition legally annexed to the ownership of the Society, — that John Hancock and those claiming under him *have not, and never have had, any title* to this land. Z's position then seems to be this, — that Mr. Hubbard did not mean to say or imply that in his opinion the Hancock heirs had any title whatever; but that this opinion, elaborate and learned as it is, was devoted to considering in whom and where *nothing* vested; whether *nothing* could be lawfully conveyed or devised; whether or not Mrs. Perkins inherited *one-third undivided of nothing*, etc. I never met with anything to beat this, except, perhaps, a deed of a moiety of a house, where, among the privileges granted, was *an undivided half* of the right of arching over a certain passage-way.

Further, Hon. Simon Greenleaf, in 1842, had this will submitted to him for an opinion. His reputation as Professor of Law in Harvard College, and as author of some of the best text-books in the profession, obtained for him the offer of a seat on the Bench of the Supreme Court, which, however, he declined. He too, it would seem, saw nothing too remote in this devise to John Hancock, which made it void in law; since he also has given a written opinion as to *who* will, in his judgment, be entitled to *this* land under *this* will, as *heirs of John Hancock*, on breach of the condition.

Z has reconciled, to his own satisfaction, the first and the last decisions of the Court itself in regard to this estate, — their disavowal, in the one case, of any jurisdiction to order a sale and re-investment of proceeds, and their exercise of such jurisdiction in the other case. I wish he would also try his hand at reconciling the two *published decisions*, to which I shall call his attention in a few days. If he can do so I shall indeed cheerfully admit the vigor of *his* bow. *He* is desirous to see the opinion of Mr. Hubbard. *I* am desirous to see the first opinion of the Court, about which he seems so well informed. How happens it not to have been *published*? Is there not a law that *all* decisions shall be published, and within a limited time? Did the Court feel dissatisfied with the decision, and intend subsequently to modify or reverse it?

GLEANER.

THE BRATTLE-STREET PARSONAGE CASE.

September 10, 1855.

MR. EDITOR: — "Gleaner" having solemnly asseverated that the late Mr. Justice Hubbard did give a written opinion upon Mrs. Hancock's will, such doubtless was the

fact. It would be uncourteous to say that "Gleaner" *cannot* understand a plain proposition, yet there is only one alternative by which to account for his ludicrous perversion of what he is pleased to call my "position" in reference to this opinion. His manifest misapprehension of a very plain statement, added to the evident fact that he neither comprehends the judgment which he praises so highly, nor yet the law of the case, are not calculated to create confidence in the accuracy of his statements as to the contents of a written opinion. There is this farther reason for doubting his correctness, viz., that Judge Hubbard sat at the hearing of *Grant et al. vs. Hancock et al.*, which he would hardly have done had he previously given, as counsel, an opinion covering every point of controversy arising out of the will. If "Gleaner" would substantiate his boast of such a predecessor, let the opinion speak for itself. I, for one, have no confidence in his account of it.

After all, — unless "Gleaner" deems himself justified in exclaiming with Falstaff, "The laws of England are at my command. Happy are all they which are my friends and woe to my Lord Chief Justice," — it is really of no consequence whether Judge Hubbard and Mr. Greenleaf did or did not give the opinions attributed to them. The Supreme Court settle the law. They have made a masterly judgment in this case, after hearing arguments and bestowing great and unusual deliberations upon the points of it. Public confidence on the correctness of their decision is not to be shaken by the opposite opinions of counsel, however eminent, even though indorsed by "Gleaner." Moreover, as

None ever felt the halter draw
With good opinion of the law,

or its ministers either, this confidence is still less likely to be diminished by the sneers or sarcasm of one, or even of a score of unsuccessful litigants, who, under the pretence of candid criticism, have the bad taste publicly to exhibit their vexation. Z

XLIV.

A CHALLENGE TO Z.

September 10, 1855.

MR. EDITOR:—The following are the two *published* decisions of the Supreme Court to which I promised to call Z's attention.

In the case of *Tyler vs. Hammond*, 11 Pick. Rep., 193, March term, 1831, for the recovery of very valuable land in Boston, it was decided by the Supreme Court that "where a deed of land describes it as *bounding on a road*, but sets forth metes and bounds which plainly exclude the road, *no part of the soil and freehold of the road passes by the grant.*" Mr. Justice Wilde, in delivering a very learned and satisfactory opinion, accordingly says: "*If by the terms of the description the road is necessarily excluded, it is equivalent to an express declaration that no part of the road is intended to be conveyed; and it is perfectly clear that the fee in the road cannot pass as appurtenant to the land adjoining.*" The law on this point was thus settled after the fullest advisement and consideration of all opposite opinions and *dicta*, and, I may add, in exact conformity with *common-sense*.

Twenty years pass away. This decision is acted on without the slightest hesitation as sound law, and innumerable conveyances are made and construed with reference to it. At last comes the case of *Newhall vs. Ireson et al.*, 8 Cushing Rep., 595, November term, 1851, when we find the same Court deciding that "*a deed describing the boundary line of the land conveyed as running northerly a certain distance to a highway, and from thence upon the highway passes the land to the centre of the highway, ALTHOUGH the distance specified by actual measurement carries the line only to the southerly side of the highway.*" The case of *Tyler vs. Hammond* was referred to in the argument. Chief Justice Shaw cited the language of the deed under consideration as "*running northerly 7 poles to the country road, and from thence upon the road 22 poles to the first-mentioned bound,*" and then says: "*The ordinary construction of such a deed to the highway, and from thence upon the highway, would carry the land to the middle of the highway. Such is the established presumption governing the construction of a deed in the absence of*

controlling words." He makes various other references, but does not cite the case of *Tyler vs. Hammond*. He adverts to the fact that the measurement only reached to the southerly side of the road, and adds: "But the Court are of opinion that *this fact does not rebut the strong presumption that boundary on a highway is ad filum viæ*. The road is a monument, *the thread (i.e., centre) of the road in legal contemplation is that monument or abuttal.*" And accordingly the Court hold that the actual measurements of the deed are controlled by the fact that in *legal presumption it meant to run, and did run, to the centre of the road.*

I apprehend that your correspondent Z, who thinks it hardly allowable for third persons to differ from the Court, will be rather embarrassed by the evidence thus afforded that, within the short period of twenty years, the Court has differed thus totally from itself in the enunciation of a general principle of law, constantly acted upon in the daily transactions of the community, — and this, too, without expressly overruling the former case, or even, indeed, alluding to it in the most incidental manner, or indicating the least consciousness of introducing any new doctrine.

As the law on this subject stands by the latest decision, a grantor selling an estate bounded south on State street will be deemed to convey to the centre of the street, — a doctrine which, I think, will surprise some who are in the habit of congregating in that locality. If a grantor lays out a street through his own land, and, meaning to retain the fee of it, sells off lots on each side bounded north and south *on the street*, he will discover that he has unwittingly parted with the fee of the street also, and may thus be most seriously embarrassed; since if he wishes to use the same highway as a means of access to his other lands he may find himself legally a *trespasser* on the soil where he thought himself a *proprietor*.

And, now, Mr. Editor, I gladly leave the barren field of legal criticism to visit the sunny slope of Beacon hill.

GLEANER.

XLV.

THE BEACON AND MR. THURSTON'S HOUSE.

September 11, 1855.

MR. EDITOR : — As our citizens pass along Bowdoin street they may notice a block of three houses at the corner of Bowdoin place, the first of which is owned and occupied by one whom we all delight to honor, — President Quincy. Few probably are aware of the interest which attaches to this precise locality. Among the lots sold by D. D. Rogers, this estate, 80 feet front and rear, was in 1802 conveyed by him to William Thurston (203, f. 86). There have been some subsequent, but very slight, changes of boundary between him and Mr. Rogers. This land adjoined the extreme summit of Beacon hill. His west line was on the lot 6 rods square, in the centre of which stood the beacon or monument itself.

The exact location of the beacon and of the 99 feet square within which it was erected is easily pointed out. If a person should walk from Park street northerly into Mt. Vernon street, and continue 60 feet northerly of the north line of that street (where it takes a westerly direction) he will come to the south line of this reserved lot of the town. In other words, the south line of 99 feet is exactly 60 feet north of Mt. Vernon street. The northerly line is exactly 159 feet north of Mt. Vernon street. The westerly line comes about a dozen feet inside of the reservoir and of the houses south of it; and the east line coincides with the west line of Thurston's and Rogers' land, *i.e.*, with the east line continued of that part of Mt. Vernon street which runs north from Beacon street. Temple street is now laid out through this monument lot, leaving, as above stated, a gore of about 12 feet of it west of that street. *The monument itself must have stood on the east side of Temple street, about 6 feet south of a point opposite to the south-east corner of the reservoir.*

Mr. Thurston, in 1804, erected on his estate a house,⁴² from which he could literally look down upon all his fellow-citizens. It

⁴² A view of the Thurston house is one of the series of fine views of Beacon Hill in 1811-12, drawn by J. R. Smith, and published by George C. Smith in 1857. — W. H. W.

stood in about the centre of his land from north to south, while it was but *two feet* distant on the west from the monument lot. It was approachable only by steps, and it was even found necessary to *hoist up* all his wood, etc. In the 12th Mass. Rep., 220, is a very celebrated law case — of *Thurston vs. Huncok* — from which it appears that the defendants in 1811 dug down their land on the west 60 feet below the original level, and the earth fell in, leaving bare his cellar wall, etc., and rendering his house itself unsafe, so that it had to be taken down. His damages were laid at \$20,000. The decision was, that "no action lay for the owner of the house for damage done to the house; but that *he was entitled to an action for damage arising from the falling of his natural soil into the pit so dug.*" A very learned opinion was given by Judge Parker. It was founded on the idea that Mr. T. must have known that his next neighbors "had a right to build equally near to the line, or to dig down the soil for any other lawful purpose"; and that, "from the shape and nature of the ground, it was impossible to dig there without causing excavations."

This opinion has always been unsatisfactory to many of the profession. The town had owned this 99 feet square on the summit of the hill, with the 80-feet way to it, for the purpose of sustaining a beacon, and as a spot accessible to all citizens and strangers. It could not reasonably have been supposed that for any sum of money, much less that for *a mere mess of pottage*, the town could have been induced to part with the one object that made it indisputably the queen of all the cities on this continent. This area on the summit of the hill having been retained for these *high* public objects, the adjoining individual owners would have held their lands subject to the easement that this area and the way to it should forever remain unmolested; and, but for the suicidal act of the town itself in selling the same, I conceive that we never could have been deprived of this, the crowning glory and beauty of our metropolis. Mr. Thurston was, I think, entitled to damages, and vindictive damages too, against parties using their adjoining lands for a purpose which neither he nor any one else could reasonably have anticipated, — *a purpose which, though not prompted by any special malice against him, ought to have been regarded as indicating a general malice against the whole community, and therefore to have been visited with the most severe punishment.*

GLEANER.

XLVI.

HANGING.

September 12, 1855.

"None ever felt the halter draw
With good opinion of the law."

MR. EDITOR:—Your correspondent (Z), abandoning argument, has *closed* the discussion between us by the above discourteous quotation. I will, however, use it as a text for a few remarks on the subject of "Hanging." While John Hancock was Governor of the Commonwealth Rachel Whall was hung in Boston for highway robbery. Her offence consisted in twitching from the hand of another female a bonnet, worth perhaps 75 cents, and running off with it. The most urgent applications for her pardon were unsuccessful. I mention this not to the disparagement of the Governor. He doubtless acted from a sense of duty, thinking it best for the community that the laws of the land, — however frightfully severe, — while they were laws, should be executed. A lad of 18 years of age was hung in Salem for arson during the administration of Governor Strong, similar appeals in his favor being considered and overruled. Yet the intelligence and the humanity, alike of the Executive and of the Council, notwithstanding the result arrived at in both these instances, were unquestionable.

Within the same period a gentleman of this city saw a girl of 17 hung in London for stealing a silver cream-pitcher. Edward Vaile Brown was hung in Boston for burglary committed in the house of Captain Osias Goodwin, in Charter street, and stealing therefrom sundry articles. I once owned a set of the old Bailey Trials (1775, 1825), embraced in a series of perhaps 50 quarto volumes. The earliest of these volumes contained the details of the trial of the unfortunate Dr. Dodd, for forgery, whose touching appeal for mercy, here recorded, was fruitlessly enforced by the splendid eloquence of Johnson. In a later volume, long after the commencement of the present century, *eight* separate capital convictions are recorded as *one day's job* of a single tribunal, the culprits being all boys and girls between the ages of *ten* and *sixteen*, and their offences petty thefts.

One case I remember of peculiar judicial atrocity. A young girl of 17 was indicted for stealing a roll of ribbon worth three

shillings. The prosecutor's testimony was to this effect: "The prisoner came into my shop and bought some ribbon. I saw her secrete this piece also. I personally knew her, and was on the most friendly and sociable terms with her. When she left the shop I accompanied her, and *offered her my arm*, which she accepted. We chatted together. As we reached the corner of a street leading to the Bow-street office, I turned toward it. She said she was going in another direction, and bade me good-morning; I said to her, '*No! you are going with me! I saw you steal a piece of my ribbon!*' She immediately implored me, for God's sake, to overlook it, and restored to me the article. I said to her that I had lost many things in this way, and was resolved to make her an example—*that I was determined to have her life!*" And he got it. I can never forget how my blood boiled as I read the testimony of this cold-hearted wretch. In view of the judgment of a merciful God, far rather, it seemed to me, would I have been in the place of that poor, frail, erring girl, even on the scaffold, than in the place of her heartless accuser.

I rose from the perusal of these volumes horror-struck with the continuous record of inconceivable legal cruelty. It seemed to me that the 70,000 hangings in the reign of Henry VIII. were matched by an equally long list of persons *condemned to be hung* in the reign of George III. Since this time much has been done in England by Romilly, Brougham, Mackintosh, and Sydney Smith, and as much—perhaps more—by kindred philanthropists on this side of the Atlantic. Hanging has, indeed, become a rarity with us; but within ven the last year I have seen a little boy, who, for week after week, had been tenant of a cell in our jail, for the atrocious offence of throwing a snow-ball at—Abby Folsom! And another, who, coming here from Lowell the day before, was tempted in the morning by an open baker's cart, and snatched from it a small roll of bread as an extempore breakfast. Their respective fines were \$2 each and costs, which they, of course, could not pay. This circumstance gave me an edifying impression of the *equality* of the law, as it bears on rich and poor. I sent these two urchins on their way rejoicing; but others have, doubtless, taken their places every week since.

The world has, indeed, grown wiser and better in some respects; but in the criminal law there is a noble battle-field of humanity yet to be fought and won.

GLEANER.

P. S. I am in favor of hanging everybody who places an obstruction on a railroad, as I would shoot a dangerous wild beast.

XLVII.

THE TITLE OF BEACON HILL DERIVED FROM COWS.

September 13, 1855.

MR. EDITOR : — We have disposed of $5\frac{1}{2}$ acres of Robert Turner's land. There remain $1\frac{3}{4}$ acres more, — being Beacon Hill itself with the monument. This lot now measures south on Mount Vernon street, about 284 feet ; west, by a line 19 feet east of Hancock street, 287 feet ; northerly, in rear on narrow strips of land separating the premises from Derne street, 244 feet ; and east, on land of D. D. Rogers.

John Turner was one of the devisees of his father, Robert, and had acquired portions by deeds from the executrix, etc. He, in 1673, sells to Samuel Shrimpton (8, f. 329) a small slip of land, in breadth 23 feet front, bounded on the Common, south, and in length 180 feet, bounded on said Samuel, west, and on the way leading up from the Training-field to Centry Hill, on the east side, and running from the east corner in front on a north line 182 feet. This is a gore of the State-House estate, bounded east on the highway to the monument, *i.e.*, Mount Vernon street. John Turner died 1681, and his executors, as we have seen, sold two acres east of said Mount Vernon street, or the monument highway, to George Monk, in 1681. On the same day they sold to said Shrimpton (12, f. 353) "all that land upon and by the side of Beacon Hill, bounded on said Shrimpton and on Elizabeth Cooke, widow, or Humphrey Davie and others, on several points and quarters, reserving unto the town of Boston their privilege and interest on the top of said hill and passage from the Common thereto."

Col. Samuel Shrimpton thus acquired all Beacon Hill and a gore of the State-House lot, the deed of said gore bounding on the residue of said State-House lot, etc., *already his*. Besides these estates and Noddle's Island, he owned the Union-bank building, and, from that circumstance, Exchange street was for many years known as Shrimpton's lane. He was decidedly one of the greatest men of his day. He died, and by will, proved February 17, 1697-8, devised to his wife Elizabeth for life, the residue of his estate, with power to dispose thereof among her relations by deed

or will. She married Simeon Stoddard⁴³ and died 1713, devising to her grand-daughter, Elizabeth Shrimpton, various other estates for life, remainder to her heirs in tail, etc. Her inventory appraises "the pasture joining to Beacon Hill, £150." [Decidedly cheap for the State-House lot, and about two acres north of it!] She married John Yeamans in 1720, and died leaving an only child, Shute Shrimpton Yeamans, who, in 1742, becoming of age, barred the entail (L. 66; f. 271-272), and vested the fee in his father. The deeds, besides mentioning the particular estates devised in tail, included "all the lands, etc., in Boston, Rumney marsh, or elsewhere, of which Mrs. Yeamans was tenant in tail by force of said will."

John Yeamans dying, the estates became again his son's, who, in 1752, conveyed to Thomas Hancock (81, f. 168) "a piece of land near Beacon Hill, containing *two acres*, late the estate of my great-grandfather, Samuel Shrimpton, bounded south on the Common, west on said Thomas Hancock in part, and *in part on Common land; then turns* and is bounded north on *Common land*, then west on *Common land*, then north on *Common land*, then east on the street or highway leading from the Common to Beacon Hill." Now, there were about 75,000 feet of land, or nearly *two acres*, in the State-House lot, and the above description evidently proceeds on an erroneous idea that the *Common lands of the town included nearly all Beacon Hill*. But we have seen the old deed of 1670 to John Turner, by which the town right is limited to six rods square, and the highway leading to it. And, from the selectmen's minutes of January 17, 1753, we find, that, on petition of Thomas Hancock, an investigation was had of the town's rights, which were then, also, in like manner limited to the six rods square, and the thirty feet highway.

The result is that Thomas Hancock thus obtained all Beacon Hill one hundred years ago, *without paying one cent for it*, and he and those coming after him retained possession by pasturing cows there. These ruminating animals, while quietly chewing the cud in that splendid cattle-field (where, by the way, they must have been the observed of all observers), also *silently eat up the inheritance of poor Shute Shrimpton Yeamans and his heirs*. One of these very heirs, a high officer of the Commonwealth (General William H. Sumner), as he looked at them, year after year, from

⁴³ For full genealogies of the families named in this article the reader should consult Gen. Sumner's History of East Boston. — W. H. W.

the State-House windows, was probably wholly unconscious that they were *feeding at his expense*. The language of the deed to Hancock seeming to recognize the ownership of this hill by the town, it became the subject of protracted litigation, in which the inhabitants were at last defeated, and while the Hancock heirs and the town were quarrelling for what belonged to neither of them, the true owners were placidly looking on in a blissful state of ignorance.

GLEANER.

XLVIII.

HISTORICAL.—THOMAS HANCOCK AND HIS RICH WIDOW.

September 14, 1855.

MR. EDITOR:—In our last article we reached the extreme westerly end of Robert Turner's estate, or a point 19 feet east of Hancock street. We have seen that Thomas Hancock, in 1752, commenced his title to this spot on Beacon Hill, which was perfected by the *grazing of cows*. The will of Mr. Turner devised, as before stated, to his sons, Ephraim, Joseph, and John, and his son-in-law, John Fayerweather. Ephraim sold out wholly to Fayerweather; and we have minuted one deed of Joseph to John Turner, bounded south on Joseph's remaining land. This residue also seems to have been subsequently acquired by said John Turner. Of the whole estate of the testator, the easterly 3 acres are finally held under Fayerweather (being the Sears, Phillips, and Bowdoin estates). The middle $2\frac{3}{4}$ acres partly under him and partly under John Turner (being the Rogers estate), while the Beacon Hill lot, $1\frac{3}{4}$ acres, and a respectable gore of the State-House lot (say 2 acres more), are held exclusively under said John Turner; so that the entire estate of Robert Turner holds out $7\frac{1}{4}$ acres, or, as I supposed, about 8 acres.

Sigma and I are both descended from a common ancestor, and one, too, who lived long after Adam and Eve (Hon. John Turner, of Salem). He was one of His Majesty's Council in Provincial times, and altogether *the* great man of that "rural district." It is with much regret that I confess my inability to claim also a descent from the owner of this very respectable pasture. In these times, perhaps, it is some consolation that he was a *vintner*. Our ancestor I apprehend to have been a "shoomaker," Robert Turner, who, by the way, owned a very pretty real estate on the west side of Washington street, a little north of Court street, part of which was the Simpkins estate, now belonging to Mrs. Bangs. This "shoomaker," by his will, seems to have been on very friendly terms with his neighbor, Mr. Joshua Scottow, whom we also meet with as the next neighbor of the "vintner." In regard to my

cousin "Sigma," it is worthy of remark, that, notwithstanding all attempts to trip him up, he is sure at last (after oscillating about a little) to be found on his feet as firmly as ever. Mrs. Polly P. Puzzlem I take to be exactly as near a relative of mine as Sigma is. If I am right in my conjectures she owns a great deal of real estate, and her present name is a striking confirmation of my remark that widows, having land, keep getting married; since she has borne this name so recently that I am satisfied her son Paul must be the issue of a former marriage. Sigma, by the way, does not believe in the "shoomaker." In the matter of ancestry he aspires *ultra crepidam*, or beyond the *cobbler's* last.

Thomas Hancock was one of our wealthiest citizens, and deservedly of the highest consideration. In his lifetime he gave the town £500 for founding a hospital, which was thankfully accepted and *misapplied*. Of this donation I was not aware when I prepared a history of the Massachusetts General Hospital; and the honor justly due to him was therefore not bestowed. I gladly make the *amende honorable* now, though in an anonymous and ephemeral manner. He died in 1764, and among numerous bequests, evincing great public spirit and liberality, he gives to his widow, Lydia, £10,000 sterling; also "the mansion house wherein I now dwell, with the gardens, yard, and land belonging to it, and all the *houses, out-houses, edifices, and buildings* adjoining, or anyways appertaining to the same as now improved and occupied by me, and also the lands near it I bought of Messrs. *Yeamans* and Thompson, and the house and land I bought of Ebenezer Messenger adjoining to my garden. I also give unto her all my plate and household furniture of every kind, and my *chariots, chaises, carriages, and horses*; and also *all my negroes*, all which she is to hold to herself and her heirs forever," &c. To Harvard College, £1,000; to the Society for Propagating the Gospel, £1,000; to the town, £600," &c. This devise to the widow included all the State House and lands west of it to Belknap street, and all Beacon Hill north of it (between 6 and 7 acres); so that she was undoubtedly the richest widow that had ever lived in Boston, and, strange to say, she remained single.

Mrs. Lydia Hancock [born Henschman] died in 1777, devising the famous Brattle-street Parsonage estate—and making many other legacies, and constituting her nephew, Governor John Hancock, sole residuary legatee and executor, who thus became owner of this princely inheritance, where he resided personally till his death, in 1793. I can easily realize the feelings which induce his nephew and namesake still to retain in its original condition his

stone mansion-house and what is left of this great estate. Amid the modern destruction of old landmarks such a conservative act is truly refreshing.

But I am not yet quite ready to make a call at His Excellency's mansion, as I have not entirely finished my inspection of the hill which at that time rose in such picturesque beauty behind it.

GLEANER.

CORRESPONDENCE BETWEEN CORRESPONDENTS.

September 17, 1855.

MY DEAR GLEANER:—I heard a skillful physician say, a few days ago, that nothing would keep you still but being etherized. By the way, you may remember that you very kindly presented me with a copy of your volume containing your account of the ether controversy. You, doubtless, remember that I praised it highly, and told you that I had no just notions of the powerful effects of ether until I read your work, for the very first five pages put me asleep. One or two of your late articles in the "Transcript," taken at bed-time, may, possibly, answer as well. How you keep yourself awake while writing them is a mystery to us all.

You say that you and I are descended from a common ancestor, John Turner. I know it; I am glad of it; for I have always thought you a very clever fellow, though as obstinate as the devil. This old gentleman—not the devil, but John Turner—was, as you say, a man of note in his time. His style was the Hon. Col. John Turner. Saltonstall in his history, and Felt in his annals, tell us, that this John Turner commanded in the battle of Haverhill, so called, against the French and Indians, in 1708. He was my great-grandfather, born Sept. 12, 1671. I have heard my mother say, that her father, son of the Honorable John, for several years preserved some half-a-dozen scalps taken in that battle. The father of the Honorable John was John Turner, a merchant of Salem, born in 1644, and who died in 1680. This is the John Turner so often mentioned in the records of Salem, as the lessee of Baker's island for 1000 years. His house, in which he died, Oct. 9, 1680, was standing in 1835, at the corner of Essex and Beckford streets. I am happy to have descended from such ancestors; for they were the ancestors of one of the greatest men of our country, and for whom it has ever been my pleasure to express the most cordial sentiments of affectionate respect—your honored father.

It is at this point that you break loose from what I have always supposed, upon excellent authority, to be the true genealogy of the Turner family, and insist upon having a shoemaker your ancestor; and you say that I do not believe in the shoemaker, but aspire to something *ultra crepidam*. No, my dear "Gleaner," I do not believe in the shoemaker, but I do believe that, if we have a shoemaker for our ancestor, and you and I continue much longer to spin such long, dry, and hard-twisted yarns for the "Transcript," the public will be very sorry that we did not stick to the last.

Upon the matter of ancestry I have ever been of the opinion expressed by Matthew Prior:—

"Heralds and nobles, by your leave,
Here lie the bones of Matthew Prior,
The son of Adam and of Eve;
Let Bourbon and Nassau go higher."

The poor boy who replied to the inquiries of the police judge, that he never had any father and mother, but was washed ashore, is more likely to find favor with the people than one who in our country makes a parade about his ancestors.

This matter can be of no possible interest to the public; but, since you have dragged it in by the head and shoulders, there is no course left for me but to drag it out by the neck and heels. My mother, who died in 1813, at the age of seventy, was the daughter of John Turner, a merchant, who died in 1786, who was the son of the Hon. John Turner, who died in 1742, who was the son of John Turner, who died in 1680, — all of Salem. I always understood her to say that the baptismal name John had been in her family for many generations, and that *the ancestors of her grandfather came from Barbadoes*. Felt, in his "Annals of Salem," edition of 1827, thus notices, under the date of October 6, 1690, the death of her great-grandfather: "John Turner had deceased lately. He was son of John Turner, merchant, who died at Barbadoes, 1668. * * * He also left children, John, Elizabeth, &c. He served as selectman. He was a respectable merchant. His estate was estimated over £6,788. His death was a public calamity." A copy of the church records in Salem, furnished me in 1845 by Henry Wheeland, Esquire, exhibits this entry: "John Turner: his wife, Elizabeth, joined the church in Salem 19.9 (*i.e.*, September 19) 1637; merchant, born at Barbadoes, where he died, 1668."

Several years ago, my dear Gleaner, you suggested this fancy about the shoemaker. I gave you my views in writing; a copy of my letter is now before me, concluding thus —

"Si quid novisti rectius istis,
Candidus imperti; si non, his utere mecum."

You never replied, and I supposed you were satisfied. And now you have broken out again, in the same spot. It must be the *pustula maligne*. To draw such things to a head and have done with 'em, I have heard that nothing was more effective than an application of *shoemaker's* (your ancestor's) wax.

You claim relationship with Mrs. Puzzlem. You are right, no doubt of it. You must be a Puzzlem; for, with my best effort, I cannot find out your meaning in that paragraph. Your object, I think, must be to persuade the public that I am the writer of the Puzzlem letters, and thus shift the responsibility from your own shoulders. If you consider this just, you must have a strange way of construing the golden rule. Very dry of late — especially your last thirteen articles.

Very truly, your friend and kinsman,

SIGMA.

GLEANER AND SIGMA. — Our well-known contributors are having a little correspondence together, as will be seen by reference to the first page. The former, having seen Sigma's communication, wrote the following: —

"Whether I was right in supposing that I stood in the *shoes* of Robert Turner, 'shoemaker,' and in my consequent determination to stick to him like cobbler's wax, or whether I may lawfully go to Barbadoes for an ancestor, the public will not probably think worth discussion. As to Mrs. Puzzlem, she evidently wishes to be incognita, and I certainly do not think it polite to raise a lady's veil without her permission. While, on the one hand, I am sure that no face resembling mine would be found beneath it, I think that her general gait, air, and manner, *notwithstanding her veil*, prove that you and she were both rocked in the same cradle. I am delighted to learn that my other pamphlet produced in *any* quarter a *soothing* effect. It had quite an irritating influence in other circles, which led to much denunciation and the copious shedding of ink."

XLIX.

THE MONUMENT.

September 15, 1855.

MR. EDITOR: — We left His Excellency John Hancock in 1793 dying seized of Beacon Hill. The Hancock title I should characterize exclusively by words beginning with d. Its descents, devisers, deeds, divisions, and dowers, with its doubts, difficulties, and defects, make it the very d—l. It is truly the *Sebastopol*, I may, perhaps, say the *St. Helena*, of conveyancers. Questions of legal construction, of great delicacy, constantly occurring and seemingly never ending, and the most complicated and embarrassing legal proceedings, mark it out conspicuously above all other estates in Boston as the one most to be dreaded by a novice, who has just put up his sign, and announced to a *confiding public* that he is ready to examine titles. If he ever hears the last of it he will be more fortunate than myself. The late John R. Adan, who was an eminently *practical* man, for years before his death adopted and acted upon the maxim that he would never examine a title that came through anybody named *Spear*, — a rule which, from analogy of name and reason, he extended to *Spurr*. I have seen him gravely decline a retainer, alleging this ground of action, though *the Mr. Spear* in question assured him that he was not of the family of Governor Hancock, and that his title would be found extremely simple.

The Governor died without issue, leaving a widow, a mother (who, by a subsequent marriage, had become Mrs. Perkins), a brother Ebenezer, and twelve children of a deceased sister, two of whom successively married Samuel Spear. One of these wives of Mr. Spear left seven children, who each claimed 1-252d part. So minute was the share of each, that on a partition, in 1819, of the Beacon-street lands, each of these children had a strip set off measuring less than 18 inches on Beacon street in width by 80 feet in depth. Three of them were females, and with dresses of the present dimensions they certainly would have found it impracticable ever to make an entry upon their lands.

Mt. Vernon street was laid out across the Hancock estate a few years after the Governor's death, in continuation of the lower part of the street, which had been laid out by the Mt. Vernon proprietors. Temple street stopped a few feet south of Derne street, or at the north base of Beacon Hill, which was the boundary of Tay's pasture. I do not propose to inflict upon you a detail of all the horrors and perplexities of this title. I will only select a specimen. A very elaborate partition was made in 1819 of this Beacon-Hill lot; each of the said Spear children here getting a strip of land measuring less than two feet four inches on Mt. Vernon street by 60 feet deep.⁴⁴

There was assigned to Thomas Hancock, a *non compos* son of Ebenezer Hancock and one of the devisees of Mrs. Perkins, a tract of 17,392 feet, being full half of the present reservoir lot. It was bounded west on land of the Commonwealth, north on land of Joseph Blake, east on the lot set off to Ebenezer Hancock, his father, south on other lots set off to said Ebenezer, to John, who was brother and guardian of said Thomas, and on a lot left undivided for the respondents — and, strange to say, there was no way to get to it. Was the partition void? If valid, there was of course a way of necessity somewhere; but over what lot? It would obviously nearly ruin the lot subjected to such easement. Shall it be over John's lot, whose duty it was to have protected his ward's rights? Or shall the *residuary* lot be destroyed? These pleasant interrogatories suggested themselves to me when I first made a professional acquaintance with this title. Brick houses had been erected, and were owned and occupied by Charles G. Loring, Charles P. Curtis, and Thomas B. Curtis, Esqs.; and the city had bought and built a brick school-house behind these houses on the large lot of Ebenezer Hancock. The erection of the reservoir has ended all difficulty as to any way of necessity, as this back lot became incorporated with the adjoining lands by which it was separated from Derne and Hancock streets. Before this event Thomas Hancock would have found it as hard work to make a legal entry into his *large* lot, as his young relations would have found in getting into their small ones. The above is a "*sample brick*" of this legal edifice.

Mr. Tay's street was subsequently extended to Mount Vernon street. I understand that the name of Temple street was selected as one of the names in the family of Governor Bowdoin, whose

⁴⁴By a note in the Transcript it seems these lots were 17½ inches wide, and the Mount Vernon street land also then divided was 28 inches wide and sixty feet long.

daughter was Elizabeth, Lady Temple, wife of Sir John Temple. He, as well as his father-in-law, was distinguished as a statesman and patriot. And we have seen that the heir in tail of the Bowdoin property was James Temple Bowdoin. So that His Excellency was accommodated with two streets, to say nothing of Bowdoin square, etc. And here I must be permitted to say a word or two more on the nomenclature of streets, upon which I have so often and, I fear, tediously dwelt already. Beacon street seems to have been so named because it did *not* lead to the beacon. Mount Vernon street (as it ranged from east to west) was 300 feet nearer to it, and thus had a better right to have been so called. But Temple street, as extended, actually hit the monument and knocked it over, and therefore was *not* named for it.

The town conveyed to John Hancock and Samuel Spear, in 1811, the six rods square on which the monument stood, and all right in the highway leading to it, 30 feet by 60 feet (L. 238, f. 177), say 11,600 feet, for the miserable pittance of 80 cents per foot (\$9,300). The monument was then a substantial structure, with inscriptions on its four sides. These are still preserved at the State House. My locomotive powers are still somewhat limited, and I shall not, therefore, at present visit and copy those inscriptions.⁴⁵ I trust that they will preserve for the remembrance of a grateful posterity the names of those who, when they erected it, meant that it should stand for ages; and I regret that I cannot consign to deserved infamy the names of those who so disgracefully turned an official penny by selling it. Such persons would sell a family graveyard!

An intelligent merchant of this city, who came here in 1787, a boy of 11 years old, remembers that this *monument* was not then erected. There was at that time a stone basement, on which rested four horizontal timbers crossing each other in the centre. From this centre rose as high a mast as could be procured, which was further supported by braces. It was surmounted by a tar-barrel, which, being set on fire, in case of danger, was to be a *beacon* to the country around. There was an apparatus of ladders for ascending to this tar-barrel; but, fortunately, it was never found necessary to give this warning signal. The hill was of a very peculiar conical shape and the boys were accustomed to throw their balls up as far as possible towards its summit, which rebounded from it as from a wall. My boyhood was passed elsewhere. It is one of my especial sources of regret that I never saw Beacon Hill.

GLEANER.

⁴⁵ These inscriptions are supplied later, under article LIV. — W. H. W.

L.

COOK'S 2½-ACRE PASTURE.

September 17, 1855.

MR. EDITOR : — The British metropolis was once unpleasantly startled by the rumor that an aged libertine, the Duke of Queensbury, daily recruited his exhausted and diseased frame by *milk-bathing*, and that the milk, after it had been thus used, was distributed by the dealers among their customers. In asking you, Mr. Editor, to walk with me into the Beacon-Hill reservoir, I trust that we shall not cause a like alarm among the consumers of "Cochituate." I fancy, indeed, that the visit will be found entirely harmless to them and to ourselves, since the neighbors assure me that it is quite a dry place, and that the reservoir is a massive granite structure for holding water *theoretically*.

We have already walked around most of its area. The main body of it is built on the Hancock title. On the north it includes narrow parcels of land, derived from Joshua Scottow's four-acre pasture, which it would be a useless labor to trace back, step by step, to its parentage. On the west side, however, we meet with a strip 19 feet wide, which separated the Hancock estate from Hancock street. To this we will now direct our attention.

In tracing the title of the 16½-acre pasture of Rev. James Allen, on the south side of Cambridge street, the south-easterly 2½ acres are found to have been bought by Mr. Allen of Mr. Davie, being the westerly moiety of a 5-acre pasture of Zacheus Bosworth. The easterly moiety of that 5-acre pasture had been sold by his son, Samuel Bosworth, to Richard Cook, 1665 (Suff., L. 4, f. 320). These 2½ acres are bounded with Humphrey Davie westerly, with Thomas Buttolph, Sen., and Joshua Scottow's land north, with land of the widow Turner and of Thomas Miller [Millard] easterly, with land of Knight, with the highway and said Miller southerly, being the moiety of the land devised to me by my father.

This tract extended westerly to a line 77 feet west of Belknap street, and easterly to a line 19 feet east of Hancock street. On the north it reached to the pastures of Scottow and Buttolph [*i.e.*,

to Myrtle street), and on the south to the estates fronting on the Common, and to a "highway," of which particular mention is made below. This Mr. Cook was progenitor of one of our first families. He died in 1671, and this land became the property of his son Elisha, who died in 1715, leaving two children, Elizabeth and Elisha, and on a division, in 1715 (Probate Records, 19, f. 287), there was set off to Elisha "the pasture land adjoining Beacon Hill; bounded east on Joseph Thompson; south on Jeremiah Allen, west on Belknap, north on Shrimpton." [Shrimpton owned Beacon Hill, Thompson owned on the Common, Belknap had succeeded Buttolph, etc.] Elisha Cook, in 1731, sold off to John Daniels (45, f. 236) a strip of land bounded north on Williams 19 feet, south on my land 19 feet, east on Yeamans 361 feet 2, west by the highway 361 feet 2. One Jacob Williams then owned the extreme lot of the Scottow pasture. So that Cook extended *Hancock street* through his pasture. It was at first called *Turner street*, and then *George street*.

W. H. Montague, Esq., of this city, a few days since, showed me a plan⁴⁶ of the town taken in 1769, under the official patronage of Governor Burnett, which I believe to be unique and of great value. Its margin is filled up with details of much historical interest. On this plan is laid out *George street*, which begins and runs south from Cambridge street, and then makes a westerly jog in the general direction of Mt. Vernon street, and then runs into Beacon street by the present Belknap street, the north part of the present Belknap street not being connected with this southerly part, so as to make one street, as at present. In other words, the *north end of Hancock street and the south end of Belknap street, connected by a jog* (in the neighborhood of Mt. Vernon street), then constituted one continuous highway from Cambridge to Beacon street, and the only one then existing.

To my great delight there appeared on this plan an orchard, obviously the same one as on Bonner's plan of 1722. But, owing to its location in reference to George street, and the size of the plan, it became possible to fix its position very definitely. Towards its south-easterly extremity was a house, and it is, I think,

⁴⁶ I do not understand this reference. Gov. Burnett arrived here July 13, 1728, and died here Sept. 7, 1729. There was a map issued then and dedicated to him, but it does not show George street, *with its jog*. It gives a street where Hancock street now is. This map is reprinted by SHURTLEFF, and, on a small scale, in the "Memorial History," ii., 1. But in that history, ii., lvi., is a reprint of an edition of Bonner's map, dated 1769, dedicated to Gov. Belcher, which shows George street as described in the text. — W. H. W.

clear, that this house and orchard were the estate of our friend Humphrey Davy, on the south-east end of Rev. James Allen's pasture, the title to 1 4-5ths acres of which was finally derived to the Mount Vernon proprietors, under deeds of Enoch Brown's heirs. This accounts for the name of Davis's lane, which by Bonner's plan ran diagonally through what is now the State-House lot, and passed westerly along the south end of this Cook's pasture terminating at the Davy estate, or 77 feet west of Belknap street. If, therefore (of which there seems to be no doubt), this was the orchard planted by Mr. Blackstone, it was not retained by him in the 6-acre reservation (which he made when he sold his 50 acres, etc., to the inhabitants), as the 6-acre lot was wholly west and south-west of this locality, since this orchard must have been by Pinckney and Mt. Vernon streets, beginning west of Belknap street.

My pleasure at looking round in Mr. Blackstone's orchard was somewhat damped by finding, on and near this 19-feet strip, *another nest of rope-walks*. I really feel, indeed, that I owe an apology for introducing to your notice, at this late day, other edifices of this description, so inexcusably overlooked in my previous gleanings. In my next article I shall show that one of them has attained to a position of higher honor, and been owned by proprietors of greater distinction than any other rope-walk to which I have heretofore called your attention.

GLENER

LI.

THE COMMONWEALTH'S ROPE-WALK.

September 18, 1855.

MR. EDITOR: — In our last article we left in John Daniels, 1731, a tract of land (part of Cook's pasture) measuring 361 feet 2 on the east side of Hancock street, and 19 feet deep. The northerly portion of this land was sold off, and became the property of "Box and Austin"; the southerly part was sold to Ebenezer Messenger, 1734, bounded east on Yeamans, south on the children of Eben and Rebecca Messenger (Lib. 48, f. 213). In 1743 Daniels conveyed to John Henderson 312 feet by 19 feet (Lib. 68, f. 32), who died in 1747; and on a division, in 1762, there were set off to Nathaniel Green and Annabell, his wife, in her right, "the rope-walks near Beacon Hill, now improved by H. Inches; also the house and land, now occupied by Mr. Gain, near the rope-walks" (Probate Records, Lib. 60, f. 194). Green and wife convey to Governor Hancock in 1765 (Lib. 105, f. 222) 120 feet by 19 feet. Green died. His widow, of course, married again. Her second husband, Richard Boynton, died in 1795; and she, while a widow, sold to the Commonwealth of Massachusetts, in 1798 (Lib. 194, f. 74), the residue bounded westerly on Turner street, 192 feet, east on land lying between the premises and Beacon Hill, 192 feet, north on the late John Box, and south on land of which Governor John Hancock died seized.

Elisha Cook, besides extending Hancock street through his pasture, also extended Belknap street from the south line of his pasture, but *not* through it northerly, so as to connect it wholly with that portion of Belknap street which communicated with Cambridge street. To this was given the elegant name of Clapboard street. Cook sold off to John Daniels a rope-walk, measuring on west side of Hancock street 25 feet, and extending back 261 feet, to land of Wheelwright (who had succeeded Davy — 1736, L. 52, f. 152). Cook died seized of two other rope-walks, together measuring 44 feet on Hancock street, and extending back westerly about 270 feet. They bounded north on Myrtle street, and on the division of his estate, accepted in 1763, they were

set off to Mary, wife of Richard Saltonstall (Probate Records, Lib. 62, f. 262). These three rope-walks west of Hancock street formed a barrier separating Clapboard street from the northerly part of Belknap street. At a later day the street was continued through them. Such extension had not taken place when the plan of 1769 was made. All the lots west of Clapboard street became the property of Mason, Otis, etc., the Mount Vernon proprietors, except one small lot of 25 feet front and rear, the property of Middleton and Glapion. Pinckney street is opened through a portion of these lots; and the present lines of Mt. Vernon street (formerly called in succession Olive street and Sumner street) cut off some of the southerly part of Cook's pasture. The title of many of these lots of Cook's pasture gets into Thomas Hancock. Thus Ebenezer Messenger conveyed to him, 1775 (Lib. 87, f. 76), a lot measuring 75 feet on the east side of Hancock street or Turner street, etc., partly held under Cook. Elisha Cook was a man of great wealth and high standing. He owned all the south side of State street from Kilby street to low-water mark, probably of itself now worth all of a million of dollars; also the large estates on School street, on both sides of Chapman place, which was long known as Cook's court.

This rope-walk, east of Hancock street, was bought by the Commonwealth, not, however, with any view of going into that business. It was used as the residence of the Messenger of the State-House, there being a narrow dwelling-house erected on it, with a yard in front lying along the street. Here for many years lived Jacob Kuhn, the honest, vigilant, and courteous guardian of the neighboring official edifice. It was he who, when a young lad, was passing along the Granary burying-ground, shortly after Mr. Adino Paddock had caused a row of young trees to be set out on the sidewalk. He took hold of one of these slender saplings, and thoughtlessly began to *shake* it (a feat, by the way, which would now be of difficult performance). In a moment Mr. Paddock darted out from his house opposite, and *served him* as he had *served the tree*. Mr. Kuhn was the agent for collecting the bills of the old Aqueduct Corporation. He presented, on one occasion, a bill to the late Dr. Bowditch, which he paid accordingly. The next day Mr. Kuhn called and said, "In paying the bill yesterday you made a slight mistake." Dr. B. said, "How can you tell what I gave you?"—"I always tear off the blank paper at the edge of the account, write on it the name of the party, and pin to that paper the particular bills in which it is paid. I did so

with your bill, and am sure that you made a mistake." Dr. B. said, "I am satisfied, and will cheerfully correct the error." — "But," said Mr. Kuhn, "the mistake is *in your favor*. You gave me a \$50 bill instead of a \$5." Dr. B. then said, "It is delightful to me to meet with a man who is so exact and methodical in his business habits, and who at the same time is so perfectly upright. You must keep the \$45, and purchase some dress, etc., for your wife, telling her, *from me*, that she ought to feel proud of her husband."

The rope-walk now constitutes the westerly lateral support of the Beacon-Hill Reservoir, an edifice which cost half a million of dollars. A high destiny and worthy of its dignified ownership. No other rope-walk can ever hope to compete with this. Though the *last*, it is not the *least*, in our list of the rope-walks of Boston.

Our graceful, conical hill, with the monument that surmounted it for its protection and embellishment, has long since ceased to exist. It is fitly replaced by the Beacon-Hill reservoir. The Roman aqueducts are among the grandest vestiges of ancient civilization. This structure will, to coming generations, be as noble a memorial of the genius, science, and enterprise of the present age.⁴⁷ We have, indeed, lost a majestic pinnacle reared by the God of Nature; but there has arisen in its stead a glorious creation of human wisdom and beneficence. GLEANER.

P.S.—On applying to James W. Baldwin, Esq., respecting the details of the reservoir building, a very elegant plan was courteously prepared for my use, by Mr. Richards, which, while it impresses me forcibly with the ingenuity of the arrangements, I find it impossible accurately and adequately to *describe*. The lateral walls are double, the outside one being over 3 feet thick, and the inner one being of varying width from 5 to 3 feet. The vacant space between them is over 7 feet in width from the base to about the height of the arches on Derne street. These two walls are united together at the top, and also at the bottom. The width of the Derne-street arches is over 20 feet in the clear. The depth of the foundation, and the height of the building, and the thickness of the immediate basin of the reservoir above the arches, I am unable to state.

⁴⁷ It is, however, true that, in 1883, the reservoir has become a thing of the past. Being pronounced useless, the massive structure has been removed, and the land appropriated for the site of a Court-House. The next generation may see that building also removed, if indeed it ever be erected. — W. H. W.

LII.

THE STATE-HOUSE LOT.

September 21, 1855.

MR. EDITOR:—In our Beacon-Hill researches we have already found the deed of John Turner to Col. Samuel Shrimpton in 1673 (L. 8, f. 329), embracing the east gore of the State-House lot, bounded “on the way leading up from the Training field to Centry Hill on the east side,” and “on land of said Samuel, westerly.” We have also seen that the executrix of Robert Turner sold, in 1870, the Beacon-Hill lot behind the State-House, bounded south on Thomas Millard. He was an original possessor of land in this vicinity, having half an acre bounded with the Common south, Richard Truesdale west, Thomas Scottow east; and he bought in 1681 of Zacheus Bosworth one acre, bounded with Edward Hutchinson north, the Common south, Thomas Millard east, and said Zacheus west (Possessions, f. 76). In a deed of 1661 (L. 10, f. 212) a lot west of the State-House land is conveyed as bounded both east and west on Thomas Millard.

Millard died in 1669. His inventory is “a small parcel of land lying on the side of the Century Hill and fronting the Common, £20.” This *small parcel* was the whole of the State-House lot except the gore which had been bought of Turner. “John Lake and Thomas Blighe, *administrators* of Thomas Millard, gave possession by turf and twig” of the premises, and also “of the land by Century Hill,” to *Samuel Shrimpton*, attorney of *Alice Swift*, sister, etc. of said Millard, Oct. 18, 1672 (L. 8, f. 308). On Feb. 23, 1673–4, the administrators acknowledged that possession was so delivered because the estate had been recovered out of their hands. “The adjoining westerly lot is conveyed 1679 (L. 11, f. 212), as bounded east on land late of Millard, *since in the tenure of Shrimpton.*”

Now, I really hope that Col. Shrimpton dealt fairly with Miss Alice Swift, and did not keep to his own use that which he received possession of “by turf and twig,” merely as her attorney. I am, however, unable to furnish any *record* evidence of his integrity in this matter. He must stand upon his general reputation,

which was that of a man of honor. It is at any rate now too late for the good lady to oust the Commonwealth. Nor do I think that Mr. Davy, whose lane used to run diagonally from the south-east to the north-west corner of this lot, can now disturb the territory by any ancient right of way to his pasture.

In a former article we have referred to the deaths of Mr. Shrimpton, 1698, and of his widow, Mrs. Stoddard, in 1713. We have seen that his grand-daughter, Elizabeth Shrimpton, married John Yeamans, 1720, and died, leaving a son, Shute Shrimpton Yeamans, who, in 1742, joined with his father in *leaving*⁴⁸ an entail created by Mrs. Stoddard, and supposed to include this lot; and we have also referred to his final deed (after his father's death) to Thomas Hancock, 1752 (L. 81, f. 168). This deed was for the consideration of £220, lawful money of Great Britain. So that the State-House lot, and all north of it nearly to Derne street (excepting the town's lot, on the top of the hill), is held under a deed of a century ago, at the cost of eleven hundred dollars. It would now be worth eleven hundred thousand dollars. A thousand-fold rise of value, even in a century, is very fair for such an old place as Boston.

We have also seen the death of Thomas Hancock, in 1763, devising to his wife Lydia, and her devise in 1777 to Governor John Hancock, who died seized in 1793. Among the items in his inventory is "the pasture adjoining the garden and Beacon Hill, between the mansion house and D. D. Rogers, £3,000." In 1795 this pasture was conveyed to the inhabitants of Boston. Thus Mary Perkins (the mother of the Governor) conveyed her right for \$4,444.44 (L. 180, f. 116); Ebenezer Hancock, his brother, made a deed precisely similar, for the same consideration (L. 180, f. 117); and the widow released her right of dower (*Ib.*, f. 118), etc. It is needless to enumerate any other conveyances. So that 60 years ago the whole State-House lot was valued at \$13,333.33, or *thirteen thousand dollars*. It is described as "Governor Hancock's pasture, beginning at south-east corner of his garden, and running easterly on Beacon street 243 feet 3 inches to the corner of a street or passage-way leading up to Bacon hill, thence running north on said passage-way towards said hill 249 feet more or less, then running on a westerly course on another passage-way

⁴⁸ Undoubtedly a printer's error for "barring an entail." The Shutes did so bar the entail by a lease and release to Henry Caswell and Col. Estes Hatch, at the time stated See Suff. Deeds, Lib. 66, fol. 271, and the reference *ante*, p. 132 of this volume. — W. H. W.

leading round said Beacon Hill 235 feet 3 inches, to the north-east corner of the garden, then running on a line with the garden about 371 feet to the first bounds." These two passage-ways are the present *Mount Vernon street*, which runs north, and then bends at a right angle westerly.

The conveyance from the town of Boston to the Commonwealth is dated May 2, 1795 (L. 182, f. 144). It is in consideration of *five shillings*, etc., and is declared to be made "in fee-simple forever for the purpose of erecting buildings and finishing thereon a *State House* for the accommodation of all the legislative and executive branches of government, and such other public buildings or offices, with their appurtenances, as may be necessary and convenient, and may be required for the suitable accommodation of the several departments of government." In the face of the manifest intention of this deed it is somewhat amusing to remember the grave deliberations that have been held year after year about moving the seat of government somewhere else, and *at the same time pocketing the proceeds of this estate, as the absolute property of the Commonwealth.*

GLEANER.

LIII.

GOVERNOR HANCOCK'S HOUSE.

September 25, 1855.

MR. EDITOR:—Next west of the State House, on "Governor Hancock's pasture," came His Excellency's mansion house and garden, being the large area between Beacon street, Belknap (or Joy) street, Mt. Vernon street, and State-House lot. The original possessor seems to have been *Zacheus Bosworth*, who, as we have seen, sold off in 1651 to Thomas Millard one acre (part of the State-House lot), bounded with the Common south, said Millard east, and said *Zacheus west* (Possessions, p. 76). By his will, dated 23, 5th month, 1655, proved August 30th, Bosworth devises to his "daughter Elizabeth 2 acres of land with a mare, or else the barn with a piece of land to it, to be laid out by my overseers." (Probate Records, 1, f. 112.)

John Mors and Elizabeth, his wife, conveyed to Richard Knight and his brother-in-law, John Wing, June 7th, 1661 (L. 10, f. 212), two acres of land in the Century field, formerly devised by *Zacheus Bosworth* to his daughter, the said Elizabeth, bounded on the Common south, on Thomas Millard east and west, on Samuel Bosworth north (Samuel Bosworth owned and sold Cook's 2½ acre pasture north of this land), reserving a ten-feet way for Samuel Bosworth from the Common. Thus the Beacon-street end of Belknap street was at first a mere matter of private accommodation for Mr. Samuel Bosworth to cart hay off from his pasture.

John Wing mortgaged his moiety to the worshipful John Richards, for the use of "the Major," Robert Thompson, of London, in 1677 (L. 10, f. 219), and Knight mortgaged his moiety to the same worshipful grantee, in *his own right*, in 1679 (L. 11, f. 212), this deed bounding east on land late of Millard, since in the tenure of Samuëll Shrimpton. Peaceable possession was given in 1684, so that the title became absolute. The worshipful John died in 1694; one item of his will is, "I give to Mr. John Alford, son of Benjamin Alford, all that piece or parcel of land lying near Beacon Hill, which I bought of Richard Knight, now in the

occupation of said Benjamin, I having formerly given it to his said son John, but he hath no deed of it."

At the Inferior Court of Common Pleas, October Term, 1717, partition was had by John Alford of his moiety against *Joseph Thompson*, of London, as owning the other moiety, and the easterly half of the land was set off to Alford. In 1732 he sells off a small lot to Ebenezer Messenger, 20 feet by 58 feet (Lib. 49, f. 248) in which is subsequently conveyed to Mr. Hancock. He conveyed, 1735, to Thomas Hancock (Lib. 51, f. 117) "a lot near Beacon Hill bounded south-east on the Common 135 feet 4 inches, south-west on *John Thompson*, of London, 341 feet, north-west on the highway 155 feet, and north-east on Col. Samuel Shrimpton (*i.e.*, the State-House lot) 263 feet." For this lot of *an acre* on Beacon street, on which stands the stone mansion, Mr. Hancock paid £1,000 in good bills of the *Provinces*.

The Thompson moiety tumbled about from heir to heir, under the English entail created by the major, to which I have referred in the case of his two-acre pasture by Somerset street. William Thompson, of Eltsham, England, the ultimate heir in tail, barred the entail in 1758 (L. 93, f. 124, 125), and, by Andrew Oliver, his attorney, conveyed to said Thomas Hancock, in 1759 (L. 93, f. 158), "all that tract of land set off to Joseph Thompson on partition with John Alford, in 1717,— October Term of the Court of Common Pleas,— measuring 135 feet southerly on the Common, and northerly in the rear 93 feet on Elisha Cook, west on land of Samuel Sewall, or a lane between it and the premises, and east on the lot set off to Alford." So that Mr. Samuel Bosworth's 10-feet alley had reached the dignity of being, *perhaps*, a lane. It had not yet attained its full-grown glories as Joy street. And for this acre Mr. Hancock paid £150 sterling more.

At these trifling prices Mr. Hancock acquired all the land west of the State-House to Joy street. He devised, as we have seen, in 1763, to his widow Lydia, who died in 1777, devising to her husband's nephew, Governor Hancock, who died seized in 1793 of this great estate thus cheaply acquired. GLEANER.

TO GLEANER.

September 24, 1855.

SIR, — As you have ingenuously confessed in one of your articles that you never saw Beacon Hill, you will permit one who saw it often, and had, as a child, a familiar acquaintance with its dandelions and buttercups, to tell you something about it. It was, at my earliest recollection, in its full glory, surmounted by a graceful column,

on whose top perched a gilded eagle, and on whose base were those inscriptions which I am still young enough to go to the State-House to copy, as I mean to do, for this article before I have done. But let us go back to the time when the hill was as described by your ancient friend; when there was, in place of the column, a stone basement, on which rested four horizontal timbers, crossing each other in the centre. From this centre rose a mast, holding on its top a tar-barrel, which in case of danger was to be set on fire, to be a beacon to the country round. This preparation was adapted to a time of war, but it was happily never needed; when the war ended, the beacon was but a remnant of things that had been. Thus it remained till about four years after the war, when a young gentleman returned from Europe who had been passing a year in England, France, and Italy, led thither not by motives of business, but what was then unusual, by a love of art, particularly that art which, in a young community is the most practically useful, — Architecture. This young gentleman, Charles Bulfinch, was the son of that Bulfinch whose name, as the owner of the pasture, has found a place in some of your communications. On his return home he immediately began to put in exercise those tastes for architectural improvement which he had carried with him abroad, and nourished by all that he saw. The first idea that occurred to him was to remove the unsightly timbers of the old beacon from their conspicuous site, and replace them with a handsome column, resembling at an humble distance those he had seen in London, Paris, and Rome. How the funds were obtained I do not know, but presume the method that has been so often used since was employed, and a subscription paper passed around; and am equally well satisfied that in that case, as in later ones, the prime mover in the scheme had to take all the trouble and make up all deficiencies himself.

The monument, designed by Mr. Bulfinch, and built under his superintendence, bore on its pedestal tablets of slate, with inscriptions written by him. On two sides the principal civil and military events of the Revolution, with their dates, were inscribed. On the third and fourth sides one read as follows:—

To Commemorate
that TRAIN of EVENTS
which led
to the AMERICAN REVOLUTION,
and finally secured
LIBERTY and INDEPENDENCE
to the UNITED STATES,
This COLUMN is erected
by the voluntary contributions
of the CITIZENS
of BOSTON,
MDCCXC.

AMERICANS!
While from this EMINENCE,
scenes of LUXURIANT FERTILITY,
of flourishing COMMERCE,
and the abodes
of SOCIAL HAPPINESS,
meet your view,
Forget not THOSE
who by their exertions
have secured to you
these BLESSINGS.

The column stood till about the year 1808, when at last the suit between the Hancock heirs and the town was decided in favor of the former, and it became certain that the hill must be dug down, with the exception of a limited space in the centre. It seemed useless for the town to retain this square pile of earth (for such it would have been), bounded with perpendicular sides, and therefore it was sold to share the fate of the rest. This is, according to my recollections, the reason why the town parted with what, if it could have been preserved entire, would have been, as you say, a unique and unrivalled ornament. But the times were hard, embargo and commercial restrictions had crushed the trade and damped the spirits of the community. The liberal and public-spirited individual through whose agency the monument had been erected had fallen a victim to the derangements of the times, and, in the enterprise of Franklin place, had made shipwreck of his fortunes. No other stood ready to redeem the hill from its fate by buying up the Hancock claim, and the hill fell, and the monument disappeared, leaving only the tablets, which still meet the visitor's eye as he prepares to ascend to the lantern on the top of the State-House, a spot from which a view similar to that which used to be commanded from the top of Beacon Hill may still be seen, with its "scenes of luxuriant fertility," etc.

At my earliest recollection the appearance of the hill was this: a grassy hemisphere, so steep that one could with difficulty mount its sides, descending with a perfectly regular curve to the streets on the south, west, and north. On the east it had been encroached upon, and the contour was broken. Just opposite the end of Coolidge avenue, on Derne street, there was a flight of wooden steps, ten or fifteen in number, leading part way up the hill. After that one had to climb the rest of the way by aid of the foot-holes that had been worn in the surface, along a wide path worn bare by the feet, to the top, where there was also a space of some fifty feet square, worn bare of sod. In the midst of this space stood the monument. Descending by the south side, one followed a similar rough gravel path to another flight of plank steps, leading down the level of Mt. Vernon street, and terminating at about the position of the front of No. 13 Mount Vernon street, the first house of those facing south.

The sport of batting the ball up the hill and meeting it again on its descent was played by some; but it was not so easy a game as one would at first suppose, on account of the difficulty of maintaining one's footing on the hill-side, which was so steep as to require some skill even to stand erect on it. The appearance of the hill in winter I do not recollect; but I think it must have been generally bare of snow, from its elevated position, and I do not recollect having even seen sleds used on it. But you can ask C. P. C., or T. B. C., or G. H. K., or Dr. R., or Marshall F., and they can correct or confirm my impressions on this point. T. B.

[THE MONUMENT ON BEACON HILL. — The account of the Beacon Hill monument, on the first page, will be read with much interest. A portrait of Mr. Charles Bulfinch, the gentleman alluded to, taken while he was in Europe, at the age of twenty-six, is now on exhibition at the Athenæum. — *Note in the Transcript.*]

From a careful copy of these inscriptions in the "American Magazine," ii., 47, (Boston, 1835), we supply the other two tablets. Those given were placed respectively on the south and east sides. — W. H. W.

(On the West side.)

Stamp act passed 1765, repealed 1766.

Board of customs established 1767.

British Troops fired on the inhabitants

of Boston, March 5, 1770.
Tea Act passed 1773.
Tea destroyed in Boston, Dec. 16, 1773.
Port of Boston shut and guarded June 1, 1774.
General Congress at Philadelphia, Sept. 5.
Provincial Congress at Concord, Oct. 11.
Battle at Lexington, April 19, 1775.
Battle at Bunker Hill, June 17.
WASHINGTON took command of the Army, July 2.
Boston evacuated, March 17, 1776.
Independence declared by Congress, July 4.
JOHN HANCOCK, President.

(On the North side.)

Capture of Hessians at Trenton, Dec. 26, 1776.
Capture of Hessians at Bennington, August 16, 1777.
Capture of British Army at Saratoga, October 17.
Alliance with France, Feb. 6, 1778.
Confederation of the United States formed, July 9.
Constitution of Massachusetts formed, 1780.
BOWDOIN, President of Convention.
Capture of British Army at York, October 19, 1781.
Preliminaries of Peace, Nov. 30, 1782.
Definitive Treaty of Peace, Sept. 10, 1783.
Federal Constitution formed, Sept. 17, 1787,
And Ratified by the United States, 1787 to 1790.
New Congress assembled at New York, April 6, 1789.
WASHINGTON inaugurated President, April 30.
Public Debts Funded, August 4, 1790.

LIV.

THOMAS BULFINCH, ESQ.

September 25, 1855.

I am much gratified to have been in any way the cause of the interesting communication of T. B.* I was not aware that the monument on Beacon Hill was planned by the late Charles Bulfinch. He has, however, left a far more imposing specimen of his taste as an architect. The State-House was planned by him, though I have always been informed that the wings were originally designed to have been of greater length than the present, as compared with the centre and the dome. Whatever may be its architectural defects, however, it is a great ornament to our city, and produces a very striking and agreeable effect when first seen from a distance. The recent addition on its north side has made the edifice *bulge* out in that direction in a manner which the neighbors doubtless consider unsightly, however convenient it may be for the occupants, and however well it may, on the whole, accord with the rest of the structure. (The stone embankment wall on the east side of the State-House has been the most costly item in our State expenditures. It was undermined by the frost, and had to be replaced in the most substantial manner. The estimates of this wall were, I believe, about \$6,000. His Excellency, in his message, incidentally suggested that the cost had *somewhat* exceeded the estimate. It was, I believe, over \$20,000.) I regret very much to see that there is any intermeddling with the foundations of the main building. Nothing indeed, now, even of the most *fundamental* character, is held sacred. I sincerely hope that the State-House will not share the fate of the *monument*.

GLENER.

* See *ante*, page 152. — W. H. W.

LV.

JOHN HANCOCK.

September 28, 1855.

MR. EDITOR:—As long as America shall continue to hold a place among the nations of the earth the memory of John Hancock will endure. Few men during life have been more highly lauded, or more bitterly assailed. To an entire disregard, and even a culpable neglect, of exactness in money matters, he united great liberality, both public and private. While Harvard College was dunning him in vain for a settlement of accounts as its late treasurer, he appropriated several hundred pounds sterling to purchase an elegant carpet and other articles in London, which he generously presented to that Seminary. And I suppose there is no doubt that eventually he repaid to it, at least, as much as the amount of his indebtedness. So remiss was he in regard to his own affairs that some very valuable real estate was actually taken from him under levy on execution. But his official signature nobly represented Massachusetts on the most important document in the history of our country.

James Bowdoin was originally chosen a delegate to the first Continental Congress. It was a glorious post of duty and responsibility,—one which the whole previous and subsequent tenor of his life alike shows that he would not have *shunned* or *evaded*. The avowed reason for declining was doubtless the true one,—the infirm state of his wife's health. [See address at Bowdoin College, 1849, by Robert C. Winthrop, a great-grandson of Governor Bowdoin.] Upon how slight a circumstance sometimes depends the gain or the loss of the highest prizes of life! Mr. Hancock was chosen as his *substitute*, and achieved for himself that immortality which might otherwise have been his rival's.

When the French fleet visited Boston a grand entertainment was given to its officers at the Governor's mansion. It was a breakfast, or, as it would now be called, a *matinée*. Believing that all good citizens would be glad to contribute, the Governor issued a summary order that all the cows on Boston Common should be milked to furnish supplies for the occasion. I am not aware that any action of trespass was ever brought against His Excellency for this truly arbitrary confiscation of private property.

These festivities on shore were reciprocated upon the water by our gallant allies. As the wife of His Excellency was seated at the table, on which was spread an elegant collation, on board the vessel of the French commander, he requested her (without any reason assigned) to ring a small bell which he handed her, or to do some other slight act which he designated. She did so. This was the preconcerted signal for a general salute from all the guns of the fleet. She was startled alike out of her official dignity and personal propriety by the deafening peal of artillery that immediately ensued.

Governor Hancock thought that, as the Chief Magistrate of Massachusetts, it was not for him to take the first step, even when "The Father of our Country" visited us. He felt that his dignity, or, more properly, the dignity of the sovereign State which he represented, would be compromised by his making the first call, even on Washington. His Excellency, however, speedily discovered his mistake, and certainly took, or was supposed by the public to have taken, an ingenious mode of correcting it. Swathing his limbs in flannels, — the victim of a sudden attack of the gout, — he caused himself to be *carried* to visit the President, who, whatever may have been his private convictions, could not hesitate to accept and excuse the tardy civilities of such a suffering invalid. Thus, singularly enough, it was by denying himself the use of his natural legs that His Excellency got upon his legs again in this matter of etiquette. Washington and his suite were detained several hours upon the Neck, and, the day being very chilly and disagreeable, many people became ill with what was called the "Washington cold." The President's dinner also grew cold (at S. S. Pierce's grocery store,⁸⁰ at the corner of Tremont and Court streets); but a supplementary fish, of great excellence, being obtained at the last moment, was served up in the most approved and satisfactory manner. The non-arrival of a fish once caused the despair and suicide of a French cook; the arrival of this fish saved an American landlord, under even more desperate circumstances, when he was doubtless making divers sentimental ejaculations, though he would not, probably, at last have resorted to such a tragical proof of loyalty.

It is, however, due to His Excellency to state that he was really a frequent martyr to the gout. My informant, 80 years old,

⁸⁰ During the year 1883 this building has been at last torn down, to be replaced by a magnificent store, again occupied by Mr. Pierce. — W. H. W.

remembers that on one occasion he opened the session of the Legislature by a speech delivered with great dignity and effect, although from a seat which was almost a *couch*, his limbs being on this occasion wrapped in flannels, from the *bona-fide* necessities of the case. And it *may be* that such was the real cause of his dilatory call on Washington, the popular opinion to the contrary notwithstanding.

When President Jackson visited Boston ⁵¹ I was a young man, and had just discovered the delights of horsemanship. I had never been made to embrace mother earth by either of the various processes of stumbling, rearing, halting, or shying. These saddening experiences came later in life. Seized, therefore, with a fit of equestrian patriotism, I determined to join the calvacade which was to escort the city's guest from the Neck. I was mounted on a fine spirited horse, and we were duly formed in a line, in front of which the procession was to pass. Just as the President was approaching us, the noise of the music and the shouts excited and alarmed my steed, and, after sundry demonstrations, which I, at least, regarded as very serious, he finally became quiet, with his tail exactly where his head should have been, and *vice versa*. In the earlier part of these performances I had great difficulty in preserving my own centre of gravity, and the spectators, to a man, lost their gravity at its conclusion. I was aware that by thus turning my back upon him I was treating the head of the nation with apparent discourtesy. But on reflection I became satisfied that my presidential visit had not proved more embarrassing and awkward to myself, or the source of more amusement and ridicule to lookers-on, than did Governor Hancock's visit to Washington; and that, with the best intentions, each of us was merely the unhappy victim of a little want of tact, and that I had one great advantage over His Excellency, viz., nobody knew who I was.

Dorothy, the widow of Governor Hancock, survived him nearly 40 years, or till 1830. She married again, and is better known to us as Madame Scott. The whole of this mansion-house estate (except a triangular gore between Mount Vernon place and street) was assigned to her as her dower, as was also Hancock's wharf. Evicted from this latter very valuable estate as lately as 1817, under foreclosure of a mortgage made in 1774, for only £1,650 13s.

⁵¹ Jackson arrived in Boston, June 21, 1833, and remained here five days. — W. H. W.

5d., she attempted to obtain a new assignment of dower; but the Court refused it, because she had given her express assent to the original assignment (13 Mass. Rep., 162, *Scott vs. Hancock*). This is one of a series of perhaps a dozen lawsuits in our Reports relative to lands of Governor Hancock.

I trust that for many a spring yet to come that old stone mansion will continue to stand,⁵² and the lilac-bushes to blossom in the green enclosure on which it fronts. Long life to its now aged proprietor, whose laudable pride of ancestry has hitherto preserved, for the gratification alike of the community and of himself, this interesting domestic memorial of the *First Signer of the Declaration of Independence*!

GLEANER.

⁵² The demolition of this mansion to give place to two modern houses, a few years since, inflicted an irreparable loss upon the city. — W. H. W.

LVI.

HOUSES ON HANCOCK ESTATE.

October 1, 1855.

MR. EDITOR:—The estate of Governor Hancock on Beacon street and hill (say $3\frac{1}{2}$ acres) would now, undoubtedly, be worth a million and a half of dollars. It would not be interesting to the public, or professionally expedient, for me to enlarge on the *non-compos* proceedings, sales by guardians of minors, and by administrators, executory devises, and sundry other like matters, which form the legal history of this spot.

In 1815 Beacon street was widened by cutting off from this estate a strip, which was 17 feet wide at the State-House land, and 20 feet wide at a point 92 feet 6 from Belknap street. A plan is recorded in L. 250, f. 76.

Mt. Vernon place and the 20-feet way behind it have been laid out through this land; and Mt. Vernon avenue, or Hancock avenue (or Cato alley, as it has been jocosely called, from its affording a convenient access across the Common to and from the northerly end of Belknap street), was laid out by mutual agreement between the Commonwealth and these proprietors. There is no other range of houses in Boston, that I know of, whose entire value depends on light, air, and prospect enjoyed merely by sufferance, *i.e.*, over the land of the Commonwealth. Should that land ever be covered by buildings these residences would become houses on a ten-feet alley, and the name above suggested would then be signally appropriate, as they would probably be occupied by the present denizens of the lower part of Belknap street.

There now stand upon these Hancock lands many of the most desirable residences in the city. Thus, west of the Hancock mansion, on Beacon street, are the four elegant dwellings of Samuel A. Eliot, of Mrs. Gardiner Greene, of Mrs. George Parkman, and of J. Bowdoin Bradlee. In the rear of these, on the south side of Mount Vernon place, are seven others, the corner one of which, on Belknap street, was owned and occupied by the late Hon. Theodore Lyman, the munificent founder of the first reform school in

the Commonwealth. On the north side of said place, and fronting on Belknap and Mount Vernon streets, are six more houses; the first owned and occupied by George W. Lyman, Esq., who is, or was, also proprietor of several of the others. There are seven houses on the avenue or "alley." Back of the State-House, on the north side of Mount Vernon street, is an elegant block of seven costly residences, extending from Hancock to Temple street, all which, except a strip of the westerly house, come under this title. On the same street (easterly of Temple street) are two houses of smaller size and cost; and on the east side of Temple street another block of eight houses of the same character. These two last ranges of houses cover, as we have seen, the site of the monument, and the chief part of the six rods square around it, there being only a small portion of it on the west side of Temple street.

The result is, that on the Hancock estate, besides the State-House and most of the Reservoir, there have been laid out four or five streets or ways, on which stand, in all, say forty brick dwelling-houses. The grounds belonging to the old stone mansion house will eventually—I trust, however, at a distant day—afford space enough for three more as elegant residences as can be built in the city. A magnificent estate truly, and yet acquired by the ancestor of the Hancock family within about a century (1735, 1752, 1759), at a cost of £1,000 province currency, £150 sterling, and £220 lawful money of Great Britain; and if "Inquirer" is right, as he probably is, in estimating the £1,000 at only \$333½, the total cost would have been only slightly above *two thousand dollars*.

In view alike of the two public edifices which have been erected on it, and of the distinguished public services of its former proprietor, it never has been and never can be surpassed in interest by any private estate within the limits of Boston. It is, indeed, a coincidence no less striking than agreeable, that on one and the same homestead should stand, as it were, side by side together, the edifice of our State sovereignty, and the mansion of him whose signature was first affixed to our national charter.

GLEANER.

LVII.

SEWALL'S ELM PASTURE.

October 4, 1855.

MR. EDITOR : — Who ever heard of " Sewall's Elm pasture," or of Coventry street, Sewall street, and Bishop Stoke street? Some of your readers, who are in a state of ignorance on these points, may, perhaps, be glad to be enlightened.

West of Bosworth's passage-way to his pastures, afterwards Belknap or Joy street, came a 5-acre pasture, derived under Richard Truesdale and Thomas Millard. In Book of Possessions (f. 62) Richard Truesdale's possession is three-fourths of an acre, bounded on the Common south, Nathaniel Eaton north, Bosworth west, and Thomas Millard east.

Thomas Millard's possession was half an acre, bounded with the Common south, Richard Truesdale west, Thomas Scottow east and north. Zacheus Bosworth's possession (f. 63) was two acres in the new field, bounded with the Common south, Richard Truesdale east, Jane Parker west, Wm. Wilson and John Ruggles north ; also $1\frac{1}{2}$ acres bounded with Thomas Millard south, James Johnson north, Edward Dennis east, and Richard Sherman west. Bosworth, as we have seen, conveyed to said Millard one acre, bounded with Edward Hutchinson north, the Common south, Thomas Millard east, and said Zacheus west, October 10, 1651, — being part of the State-House lot, — and transmitted to his daughter the whole two acres of the Hancock land west of the State House. For practical purposes, notwithstanding the deficiency of contents as stated in the Book of Possessions, the title is safe under the two following deeds to the whole land thereby conveyed : —

Richard Truesdale and Mary his wife to Thomas Deane — deed May 14, 1667 (Lib. 5, f. 234). Three acres, more or less, bounded on the Common south, on Thomas Millard north and east, on Francis East west, on Thomas Brattle and Humphrey Davy north-westerly.

Thomas Miller conveyed to said Deane, May, 1768 (Lib. 5, f. 249), 3 acres bounded on the Common south-west, on Richard Cook, Humphrey Davy, and Thomas Brattle north-west, on the highway leading to Richard Cook's north-east [*i.e.*, Joy street], and on said Deane south-westerly.

These two purchases would seem to be 6 acres, but Thomas Deane and Ann, his wife, sell the same to James Whetcomb, Feb. 11, 1672 (Lib. 8, f. 62) as five acres, more or less, bought partly of Truesdale and partly of Miller, bounded south-westerly on the Common, on Cook, Deane, and Brattle north-west, on Francis East west, on the highway from Cook's to the Common north-easterly.

Whetcomb conveyed it to Wm. Hawkins as early as 1678, and Wm. Hawkins and Anna, his wife, conveyed to Ephraim Savage, 1690 (L. 15, f. 46), as "formerly purchased by said Hawkins of James Whetcomb." Ephraim Savage and Elizabeth, his wife, conveyed to Samuel Sewall, April 2, 1692 (L. 15, f. 183), as five acres, more or less, bounded south on the Common 28 rods 9 feet, west on Francis East $27\frac{1}{2}$ rods, north on Cook, Davie, and Brattle 33 rods, and east on the lane leading to Mr. Cook's $22\frac{1}{2}$ rods.

Hon. Samuel Sewall was husband of Hannah, daughter of Hull, the mintmaster. She died, and he mortgaged to Joseph Wadsworth, town treasurer, the west part of this pasture, in 1721 (L. 35, f. 201), to secure an annuity of £5, payable every 2d of April, ³³ "for the use of the School at the South End of Boston of the upper End of Pond Street so called, whereof Ames Angier is now Writing Master, which School is not far distant from the Place where Mr. John Sanford, a Pious, Skilfull and Prudent man, formerly taught School, and whose Scholar the said Hannah was, and of whom, with Pleasure, she frequently made mention." Lest the residents on Beacon street should feel alarmed as to this rent charge of £5, I will mention that it was released by the town to his heirs. He married Mary, widow of Robert Gibbs, 1721 (Suffolk, Lib. 36, f. 59), and died seized of this pasture in 1729.

This pasture may be set down as an investment of some of Mr. Hull's "shillings," though not made by himself personally. Considering the *number* of them which Judge Sewall received with his wife, and which made him one of our wealthiest citizens, the donation above mentioned was not, in itself, a munificent endowment of our public schools, nor, viewed as a parting tribute of affection to the memory of the wife of his youth, when, in his old age, he was just taking another helpmate, can it be considered as involving any very *lavish* expenditure.

GLEANER.

³³ We have ventured to give an exact quotation from the original deed, at this place — W. H. W.

LVIII.

STREETS ON PAPER.

October 8, 1855.

MR. EDITOR:— Judge Samuel Sewall died, as we have seen, in 1729. By the law, as it stood till⁴⁴ the eldest son took a double share. He left three children: Samuel, the eldest son; Joseph; Judith, the wife of William Cooper; and the four children of a deceased daughter, Elizabeth, wife of Grove Hurst, viz.: Mary, wife of William Pepperell, Jr.; Elizabeth, wife of Charles Chauncy; Hannah, wife of Nathaniel Balston; and Jane, wife of Addington Davenport. These heirs selected referees to divide this pasture into lots, and they then drew for a choice, and executed mutual releases (1732). There was laid out a 35-foot street parallel to Beacon street, and 170 feet north of it, which street extended westerly from Belknap street 464 feet. There were also opened two streets running northerly from Beacon street, 25 feet by 170 feet deep. The first of these was 160 feet west of Belknap street, and was called Bishop Stoke street; the other was 160 feet further west, and was called Coventry street.

All these streets I consider to have been virtually, perhaps actually, only streets on paper. They had no outlet into other lands, but merely served as access to the several lots into which this pasture was divided. They have had no existence in fact, for certainly the last 60 years. Part of Bishop Stoke street, indeed, now comes within the lines of Walnut street.

"Sewall's elm pasture," which began as six acres and shrunk up to five acres, proved on survey, in 1732, to hold out only $4\frac{1}{2}$ acres. It measured 440 feet on the Common or Beacon street, and thence extended back, the easterly line diverging, and on the north forming a very irregular line on Allen's $16\frac{1}{2}$ -acre pasture (afterwards Wheelwright's, and finally bought by the Mt. Vernon

⁴⁴ Blank in the original. The act of March 9, 1784, continued the old law, in case of intestacy. The act of June 8, 1789, repealed the clause, and made all the children share alike after January 1, 1790. The act of March, 12, 1806, and its successors have continued the practice. —W. H. W.

Proprietors). Its greatest depth from Beacon street was at about the centre, where it measured 490 feet. Some idea of its general dimensions may be formed by considering that the present square between Beacon, Belknap, Mt. Vernon, and Walnut streets constitutes just about the easterly half of this pasture.

Without going into the detail of the various deeds of these lots, the general result is, that all west of Walnut street, as now laid out, gets united in John Singleton Copley, partly by deeds of Dr. Sylvester Gardner, in 1770, and partly by deed of John Williams, in 1773; there being intervening deeds by Peter Lucee, 1744; Benjamin Bagnal, 1744; Hon. John Erving, 1752; Nathaniel Cunningham, 1783,* and his son Nathaniel, 1751. These purchases of Copley included, also, a gore east of Walnut street, which was subsequently conveyed by him, 1800 (194, f. 116), to Dr. John Joy, in whom all the other lots east of Walnut street likewise get united in 1791-1798.

Great confusion exists among some of the series of deeds of this easterly moiety of the pasture, and in 1792 a deed was made to said Joy by John Williams, executor, for £100 (L. 171, f. 255), which was a mere pretended title. Some time after Mr. Joy had bought and paid for it, it is said that Mr. Williams asked him if he did not want to pay £100 more for another deed, and on Mr. Joy's asking what he meant, told him that he had *still got as much title left as he had originally conveyed*. This very deed, however (as affording a distinct basis of a possessory title), became ultimately of great value; since it quietly cured all informalities and deficiencies in the deeds of the true owners. A fine plan of this estate of Dr. Joy, in 1799, accompanies an indenture recorded Lib. 192, fol. 198. A small gore of land south of Mount Vernon street comes under Allen or Wheelwright. All the residue of Joy's land is from Sewall's pasture. His whole lot finally measured 172 feet on Beacon street, 457 feet 4 inches on Walnut street, 305 feet 1 inch on Mount Vernon street, and 355 feet 3 inches on Joy street, being about 100,000 square feet.

GLENER.

* This date is probably a misprint. — W. H. W.

LIX.

CONDITIONS — EAVES.

October 11, 1855.

MR. EDITOR : — Titles to real estate forfeitable by breach of condition are by no means uncommon in Boston, being, however, chiefly held under deeds made during the present century. Thus all North and South Market streets, Park street, Colonnade row, and a large proportion of all the lands on the Neck and elsewhere, conveyed by the city, are on condition. All Winthrop place is held under conditional deeds of George Bond. The large Barton Point estate is held under such deeds from the Barton Point Association. The whole great area of the old Mill Pond lands was so conveyed. The lots upon Broad, India, and Central streets, with the other streets in that vicinity, were so conveyed by the Broad Street Association, or by individuals. The entire marginal lots, and many others, at East Boston are also subject to conditions.

There is great inconvenience, as well as danger, from such titles. For instance, one large tract is conveyed at East Boston on condition that no ferry shall be established. Fifty separate house-lots are sold off with warranty, making no mention of the condition, the parties supposing that it is inapplicable to any except the remaining water-lots; and yet a breach by this remaining owner might work a forfeiture of the whole original tract, and destroy the titles of his innocent grantees. In one court in this city, a tract, on which now stand seven dwelling-houses, is conveyed by one deed, with a like joint condition as to the style of building, — making each proprietor liable for the acts of half-a-dozen neighbors. And this is especially true of many of the city lands on the Neck. It not unfrequently happens that the mention of the condition (even when made merely of the one particular lot) gets omitted in later deeds by mistake, and thus a party may ruin himself unconsciously by some little violation.

In *Gray vs. Blanchard* (8 Pick. Rep., 284) land was conveyed on the condition that "no windows shall be placed in the north wall of the house aforesaid, or of any house to be erected on the

premises within 30 years from the date hereof," and the breach of this condition forfeited the entire estate.

How great a risk may be run from this cause will be apparent by considering the following adjudication: —

In 8 Cushing, 150, *Millet vs. Fowle*, it was decided by the Supreme Court that the expression in a deed "four feet from the northerly *side* of the building," means four feet from the *extremest part* of the building, and therefore from the *eaves*. In other words, that *eaves*, as they project over the front or side of a house, are the *extremest part* of that *front* or *side* of the building.

Now, there are many long ranges of estates in Boston, where, for the purpose of uniformity, conditions were originally imposed, the breach of which would work a forfeiture. One of these conditions always prescribes the *front* of the houses (as that the front of every building erected shall be 6 feet or 10 feet back from the line of the street). The *main* walls are accordingly placed on that exact line. Under the above decision, if the *eaves*, or, as it would seem, even the window-sills or caps, project an inch, it works a forfeiture, because the *extremest part* of the front of the house must be at the distance prescribed.

I verily believe, therefore, that every estate in Boston, which has heretofore been conveyed on such a condition (and the city are making such conveyances every day), has been forfeited under the above decision. Or, in other words, that the above decision strictly carried out would defeat many hundred honest titles.

It is undoubtedly a sound rule of law that in all cases of reasonable doubt a deed is to be construed most strongly against the grantor. This has been applied, and I think rightly, in an extreme case (*Saltonstall vs. Long wharf*), where a little store lot, 18 feet on State street, was conveyed, bounded east on *the sea or flats*, and the deed was held also to pass *all the flats to low-water mark along the whole south side of Long wharf*, because, by the use of two words, one of which passed the flats, and the other which excluded them, a reasonable doubt arose as to the grantor's intent, making this rule of construction applicable. But it seems to me that in the class of cases above referred to there is no such reasonable doubt of the intent. The *side* — the *front* — the *wall* — of a house means the *main, general line* of such *side, front, or wall*, — not those little petty projections, such as window-caps or sills, always added for ornament; or the more indispensable eaves, required alike for the effectual support of the roof, and the symmetrical finish of the structure.

I have thus far considered the above decision as erroneous on general grounds, and even assuming that the Court were correct in

holding *eaves* to be part of the *side* of the house over which they project. But Webster's Dictionary defines "eaves" to be "the edge or lower border of the roof of the building which overhangs the walls and casts off the water that falls on the roof." In like manner, Johnson and Walker's Dictionary, as improved by Todd, defines eaves as "the edges of the roof which overhang the house," quoting Shakespeare for this meaning. I have not thought it necessary to consult any other lexicographical authorities.

Under these *definitions*, of course, a line running 4 feet from the *side* of a building is *not* to be measured from *the eaves*, which are *not* a part of the *side* of the building, but of the *roof*. In other words, our Supreme Court, as lately as 1851, have decided that "eaves" in law means a part of a house wholly different from what it means by the standard dictionaries of the English language.

Within the past year, indeed, quite a number of elegant new houses on the Neck were found to be accidentally forfeited to the city because their bow-fronts projected over the prescribed line, and on application the forfeiture was released.

Latterly *conditions* have justly become very unpopular, and *restrictions* are imposed instead. This is the case with Pemberton square, Edinboro' street, the South-Cove lots, etc., where the parties may enter and remove the building, or resort to equity to compel a specific performance of the agreement. Courts lean strongly against conditions, as is indeed abundantly proved by the late case of the Brattle-street Parsonage. While it seems by the case of *Austin vs. Cambridgeport*, etc. (21 Pick., 215), that if a condition be created by deed, the grantor may lawfully devise such interest, and a subsequent breach will give the estate to his devisee, such devise *not* being too *remote*, and therefore *void*. And yet in the latter case, where a testator, by one and the same instrument, first creates a like condition, and then devises his remaining right, such devise *over* is too *remote*, and therefore *void*, though to common apprehension the ultimate devise is exactly equally *remote* in each case; and though wills are avowedly construed more tenderly and charitably, as to the intent of the testator, than deeds are, because they are often made *in extremis* and without the aid of counsel, and the use of inartificial language is therefore overlooked in view of the manifest general intent.

A law passed prohibiting all conditions, or all forfeitures for breach of condition, would, I think, be a good one. GLEANER.

P.S. — Worcester, in his new model dictionary, is as much behind the age as his predecessors. He defines "eaves" as "the edges of the *roof* of a house."

LX.

FREDERICK TUDOR — R. G. SHAW.

October 15, 1855.

MR. EDITOR:—Dr. Joy was desirous of getting a house *in the country*, as more healthful than a town residence, and he selected this locality as “being country enough for him.” There were, indeed, then but *two houses* west of the square, which he purchased — one of them occupied by Charles Cushing, Esq.; the other by “Master” Vinal, both standing on the Copley estate. The barberry-bushes were flourishing over this whole area, as they now do on the hills of West Roxbury. And he was right in believing that nowhere else could he inhale purer breezes than those which were wafted across the Boston Common and the river that then washed its borders. There were then no noxious exhalations from the “Back Bay”; and they do not, indeed, even now, reach as far as this favored spot.

The prices paid by Dr. Joy were £100, £66 13s. 4d., \$500 and £337, or about \$2,000. There now stand on this land twenty-two dwelling-houses, among which are many of the very finest in our whole city. Its whole present value cannot be less than half a million of dollars. Dr. Joy sold off all the westerly and most of the northerly portions, retaining for his own occupancy the south-east part of the estate, measuring 97 feet on Beacon street, and 254 feet 7 inches on Belknap street, now called Joy street. On this he erected a modest and graceful wooden dwelling-house, which was eventually removed to South Boston Point, where it is still, or was recently, standing, on land of Benjamin Adams, Esq. Here he lived till his death, in 1813. He left a widow, Abigail, and two children, Joseph G. and Nabby; and, in 1833, this reserved lot was sold by his heirs for \$98,000, and upon it were erected three dwelling-houses on Beacon street and the four southerly houses of the block on Joy street.

The corner estate on Beacon and Joy streets (land and building) is supposed to have cost Israel Thorndike \$90,000. It was subsequently purchased by the late R. G. Shaw for \$50,000, and was the mansion-house estate occupied by him at his decease. It has been since bought by Frederick Tudor for \$70,000, who still

owns and occupies it. The adjoining house on Beacon street belonged to the late Samuel T. Armstrong, in whose mayoralty it was, I believe, that the iron fence was completed around the Common, and whose signature, as Lt. Governor, gave validity to a new code of laws, the Revised Statutes of the Commonwealth, in 1836.

The only natural productions of New England, as has been well said, are ice and granite. It is to the wisdom and intelligence, and above all to the indomitable energy and perseverance, of Mr. Tudor, that the first of these articles has become a mine of wealth to the community, far more precious than the richest "placers" of California. It is, I believe, a favorite theory of political economists that a nation is on the road to ruin when the value of its imports exceeds that of its exports. But the fallacy becomes manifest when a cargo of Mr. Tudor's ice — worth almost nothing here except the labor of collecting it — is sent abroad to the panting and perspiring denizens of the tropics, or to refresh the natives of even distant India, and is there exchanged for a precious freight of costly spices and merchandise.

I remember to have heard with much interest an account of the first shipment of ice to India, from the gentleman who went with it as supercargo. He described the naïve astonishment of the natives as they took into the palms of their hands little particles of ice, and watched them slowly melt away, — the proceeding being apparently conducted as cautiously as if they had been handling live coals, — and the formal entertainment given by the Governor General, Lord William Bentinck, as an appreciative acknowledgment to those who had thus placed within the reach of a great nation one of the most delightful luxuries of a bountiful Providence.

All honor to *Mr. Tudor* for his great *discovery*! May his own prosperity always keep pace with the *ruinous* consequences which it has entailed upon New England.⁶⁵

⁶⁵Without detracting at all from the remarkable business enterprise shown by Mr. Tudor, it is proper to note that the field opened by him has since been closed. The introduction of ice into Calcutta was, indeed, a priceless benefit to the inhabitants, and for many years it was a prosperous business for Mr. Tudor and his successors. But the restless spirit of invention has discovered means of producing ice there at a less cost than that of importation from New England, and this particular traffic is a thing of the past. On the other hand, the demand for ice within our own territories has so increased that the business has developed beyond the wildest dreams of its originator. Mr. Tudor died February 6, 1864, aged eighty years; and his widow died March 9, 1884, aged sixty-nine years. — W. H. W.

Nor was *Mr. Shaw* a less remarkable man in his way. Ever extensively and actively engaged in commerce, cautious when he seemed to be most bold and daring, he displayed a uniform sagacity, which, in its results, was as advantageous to himself as it was to the community. The public spirit which he displayed through life was also manifested by munificent charitable bequests and endowments, which will make his name known and honored long after the wealth that he won for his heirs shall have passed away, and the memory of his useful career as a citizen shall be forgotten.

GLENER.

LXI.

ROBERT G. SHAW.

October 20, 1855.

MR. EDITOR:— My last article closed with a brief allusion to the late R. G. Shaw, Esq. It is well known that, before his death, he became a convert to spiritualism. While he showed his accustomed shrewdness in all business transactions, he yet implicitly believed that he had daily communications with deceased relatives, and derived from this belief the greatest satisfaction and consolation. That such a man should have arrived at such a result would of itself imply that he must have witnessed phenomena that *tended* to justify it. These phenomena may, perhaps, be satisfactorily explained by another hypothesis. President Mahan has recently published a very able volume, having this object, and in which he considers as incontestable the *facts* testified to by so many credible persons, and many of which he had himself witnessed.

Within the past year circumstances led me to take much interest in this subject. Designedly omitting to read anything in relation to it, I determined to observe for myself. The use of a pencil to point at the letters of the alphabet having been suggested in some quarters as a source of unconscious error (inasmuch as a person may involuntarily pause longer upon the right letter than upon others, — a circumstance of which an intelligent and observing medium might take advantage), I latterly dispense with entirely, in the following manner: A printed card contained the letters of the alphabet in three lines of 8 letters each. I asked that the raps should be made 1, 2, or 3 for the *line* at which I was to look, and then, after a slight pause, that further raps should be made, from 1 to 8, for the particular *letter* meant in that line. The effect was as if the particular letter had been at once called out *viva voce* without any instrumentality of my own.

I have in this way often obtained a series of pertinent and coherent answers to *mental* questions, without a single mistake, through a session of two hours. This demonstrated to my satisfaction that a power of thought-reading existed somewhere, residing in, or

proved by, the agency which caused the raps, whatever that agency might be. Whether this is a mesmeric or a spiritual manifestation is the question discussed in Mr. Mahan's volume. He adopts the former theory. Whatever may be the true explanation the investigation is one of intense and absorbing interest.

As far as my own experience goes, the raps have always *purported* to come from the spirits of deceased persons, in natural terms of relationship or endearment, and in their accustomed modes of expression; sometimes from persons long since dead, who had not been in my thoughts for years. I have never been able to get any as from *living persons*. Mr. Mahan, however, has a mass of testimony to the contrary. These raps (as from particular spirits) I have always found marked by individual peculiarities signally appropriate, and identifying them from all others, by loudness or gentleness, rapidity or slowness, by their prolonged or abrupt character. One spirit, indeed, always announced himself by a creaking corkscrew rap in the leg of the table, — thus distinguishing himself from all others by as marked a characteristic as those which had made him preëminent among his fellow-men while living. I have sometimes said *mentally*, "Will all who have been present rap together?" and immediately there has ensued such a *tattoo* of all these various raps as was truly astonishing, the corkscrew being clearly noticeable among and above them all.

The mesmeric theory supposes that you get, as it were, a mere reflection of your own thoughts, belief, or wish, and in a vast majority of cases such is undoubtedly the fact; but the answers which I have obtained have been sometimes wholly unexpected. Thus, one day last winter, I was passing through Washington street, and inadvertently went along the sidewalk of a building from which persons were breaking off masses of ice and frozen snow. One of these masses fell, and, hearing cries of warning, I shrank up close to the wall, and it just grazed my shoulder and elbow, and then shivered to pieces on the sidewalk. I felt that I had had a narrow escape from certain death. I was then on my way to Mr. Hayden's, where I went immediately. No one else was present. I said *mentally*, "What happened to me as I was coming here?" The alphabet spelt out, "You came near being killed." — "How?" — "By a fall of ice from the roof of a house." — "How did it happen that it did not fall upon me and kill me?" The spirit purporting to respond was my father's. The answer began, "*I prote* —" I had supposed that it would state the act of *mine* which saved me; but when it began with these letters I supposed it would be, "*I protest I don't know.*" The answer actually given was, "*I pro* —"

tected you." — "How?" — "By slanting off the ice." This led to a series of questions and answers as to the power of spirits over matter, etc., etc.

So, also, at a session in company with a distinguished clergyman of this city, I asked of a certain "spirit," purporting to be present, whether a certain other was there also; 1 rap, or no. "Can you get him?" 3 raps, or yes. "Do so, and as soon as he comes, both of you rap." In a few minutes their raps were heard accordingly. In the meantime another spirit was communicating, and had just finished a sentence with the word "oncle." I remarked aloud to my friend, "You see it is all right except one letter." I then turned to communicate with the spirit sent for. Immediately many raps were heard of the same faint and rapid character as those of my late correspondent. The medium said, "The one you have been communicating with wishes to say something more." Whereupon, resuming that communication, the alphabet spelt out "u," and then left off. I said "Proceed." 1 rap, or no. I said, "Is that all?" 3 raps, or yes. I reflected for a moment, and exclaimed, "Oh, you mean that *u* is the right letter where I said one letter was wrong?" Immediately affirmative raps came several times repeated. I said, "Then rap backwards from the end of your communications, once for each letter, till you get to the wrong letter, and I will strike it out and substitute *u*." 5 raps then came, and I changed the *o* to *u*. I then said, "Is it now right?" and got the same cordial affirmative. *When "u" came, I had not the slightest idea that it was to be a correction of "o."*

This exceptional class of cases is also discussed in Mr. Mahan's volume; but, on the whole, I became satisfied that, although Mr. Shaw may have arrived at an erroneous conclusion, the *premises* upon which he acted were by no means a mere absurd delusion; but that he, like myself, had witnessed a mystery of nature worthy of the most careful and exact scientific investigation.

All my articles have been about *land*, and perhaps this brief visit to the spirit *land* may be allowable as one of the series. You will, I trust, at any rate, excuse me for what you may, perhaps, regard as mere idle speculations, unworthy even of a

GLEANER.

LXII.

URIAH COTTING—SAMUEL APPLETON.

October 25, 1855.

MR. EDITOR:—The most westerly of the three houses on Beacon street built on the land sold by Dr. Joy's heirs, in 1833, is that owned by B. C. Clark, Esq., an active and intelligent merchant, the author of an interesting pamphlet respecting Hayti, with which country he has extensive business relations.⁶⁶ West of his house comes a large lot which Dr. Joy in his lifetime sold to the late Uriah Cotting in 1806 (L. 216, f. 16). It measured in front 75 feet on Beacon street, and extended 248 feet on Walnut street, widening in the rear to 104 feet. I have in a former article briefly alluded to Mr. Cotting, who lived and died in the house in Somerset street there spoken of. When he made this purchase of Dr. Joy he supposed himself, and on reasonable grounds, to be one of the wealthiest of our citizens, and accordingly began the foundations of a magnificent mansion, with a freestone front, occupying the whole site of the two houses belonging to the late Samuel Appleton and the late Benjamin P. Homer. It would have surpassed any house even now existing among us, and at that time there was no edifice that could have borne the slightest comparison with it for splendor and elegance. The lower story was already constructed, when the embargo, followed by war, took place. Rents declined; real estate fell exceedingly in value, and he found himself—comparatively, at least—a poor man. He at once took down the building, and selling off to Mr. Homer the westerly moiety of the land (and of other lands which he had bought behind it), he erected on the residue the elegant mansion now standing, and which he sold to Mr. Appleton for \$30,000, in 1818 (L. 259, f. 244). the lot being 43 feet in front and 330 feet deep. His health soon afterwards began to fail, and he died of a rapid consumption in 1819; and such still continued to be the depressed state of all kinds of property that his estate eventually proved insolvent.

⁶⁶ Mr. Clark died Nov. 16, 1863. His son, of the same name, is still Consul for Hayti in this city.—W. H. W.

I will mention an anecdote relating to this house and to its original and recent ownership. On the death of the widow of Mr. Cotting, one of the most estimable and exemplary of women, which happened but a few years ago, I published in the "Boston Courier" a notice of the services of Mr. Cotting, detailing various extensive improvements which he had planned and executed; and I concluded by suggesting that perhaps some of our wealthy citizens, whose own fortunes had been increased by a participation in his enterprises, might be willing to contribute something to replace to his daughters a small annuity which their mother had hitherto received under the will of the late Edward Tuckerman, and which thenceforth ceased. The article was copied by another of our chief journals, and its closing suggestion approved. I waited first upon Mr. Appleton. He told me the circumstances of his purchase of this house, saying, "I meant to deal at the time liberally with Mr. Cotting, and offered him the amount of what I thought its actual value, telling him that he might take six months to find any other purchaser who would give him more. In a few days, however, he came back and accepted the offer, admitting that nobody else was willing to give so much. He expressed his great satisfaction at selling it, and his obligation to me for what he himself considered a full and adequate compensation." Mr. Appleton did *not* end by saying, "So you perceive that there is no reason why *I* should be thus called upon." "But," he said to me, "the estate is now worth more than double that price (perhaps \$75,000), and I will head your paper with \$500." This was more than I had hoped for, though I had never been refused by him in my life; but, on the contrary, had always found him a most "cheerful giver." Another gentleman, who had been intimately associated with Mr. Cotting, at once added his name for the same sum. Hon. David Sears and others subscribed various amounts in a like liberal spirit, and I was in the "full tide of successful experiment," when I received, from the young ladies interested, instructions to proceed no farther, lest that should be yielded to my solicitations which would not have been spontaneously offered as a tribute of respect for their father's memory.

Mr. Cotting is buried in the Granary burying-ground. The forthcoming volume of Mr. Bridgman, in relation to this place of interment, will doubtless be as accurate in its facts and as beautiful a specimen of letter-press and typography as his similar volume on the King's Chapel burying-ground, and I cordially

advise all who are interested in "historical gleanings" to subscribe for it at once. I am glad that it will preserve in a permanent form what I feel indeed to be but a slight and inadequate tribute to the memory of perhaps the most distinguished citizen who has been laid to his rest in that field of death.

Mr. Appleton died in this house, July 12, 1853, aged 87 years. In youth a village school-master, in manhood an eminent merchant, he found in acts of daily beneficence the best solace for the infirmities of age. Simple habits, uncompromising integrity, and a noble public spirit, won for him the confidence and regard of the community; and death gently closed a life that had been prolonged and blest by the kindest offices of domestic affection. He bequeathed a large part of his great wealth for purposes of literature, science, charity, and religion. A mural tablet in the King's Chapel will appropriately record his virtues; but to this spot, where he lived so long, happy in making others happy, — a spot hallowed by the grateful prayers of the widow and the orphan, — the annalist of Boston will point with pride as the *home of Samuel Appleton*.

GLENER.

LXIII.

HISTORICAL.

October 30, 1855.

MR. EDITOR:— In our last article we mentioned that Mr. Cotting sold to the late Benjamin P. Homer, in 1816, the south-west corner lot of Dr. Joy's land. It measured 32 feet on Beacon street, and 200 feet on Walnut street (L. 250, f. 283). He sold the rear lot, measuring 66 feet 6 inches on Walnut street, to N. P. Russell, Esq., 1814 (L. 243, f. 273), which also subsequently became the property of Mr. Homer. Mr. Homer had rather more than his share of the old streets. A strip of 15 feet in width of old Bishop Stoke street takes half the width of his lot, and old Sewall street runs across his rear. If these easements could now be enforced, his lot would certainly be sadly curtailed of its fair proportions.

He was one of the "solid" men of Boston, and at his death, in 1838, was one of our oldest merchants. His will contained provisions which called for judicial construction, and there are at least three printed decisions in our reports growing out of it (2 Met. Rep., 194; 5 Met., 462, and 11 Met., 104). The Legislature also have been appealed to, more than once, to cut the Gordian knot which the law could not untie. One clause of his will was as follows: "And I do hereby expressly authorize and empower my executors, or *such of them as shall take upon themselves the probate of this will*, to sell and convey and execute good and sufficient deeds to convey all or any of my real estate." He appointed two executors, both of whom proved the will and assumed the trust; but one of them immediately found that he had personal interests incompatible with this official position, and forthwith resigned his trust, and the other acted alone in the entire settlement of the estate, except only in this first act of proving the will. A statute expressly authorizing a resignation of an executor was passed March 24, 1843. The Court, in the case before them, did not find it necessary to consider the validity of this resignation; but they did decide that, if the resignation was valid, the power of

sale could not be exercised by the other executor. In arriving at this result they adopted the strictest literal construction of the words, "take upon themselves the probate of this will," which might perhaps fairly and liberally have been considered as equivalent to "taking upon themselves *the settlement of my estate*," or "those who shall be the *acting* executors of my will for the time being." For the testator certainly had little *confidence* in them *both jointly* and in *each of them separately*. Looking back upon the past professional anxieties and perplexities, though I certainly should not say that I wished that Mr. Homer had *never lived* (since that would have involved the loss of several pleasant young neighbors, belles of the rising generation), I can yet truly say that I have more than once wished that *he was still living*.

On the rear purchase of Mr. Homer stood the house in Walnut street, of which the late Dr. George Parkman was tenant at the time of his murder. Posterity can hardly over-estimate the intensity of the excitement awakened in the community by his tragical fate, and by the judicial proceedings which ensued. If I should select *the two occasions* of a public character which I have found more deeply interesting than any others, I should refer, without hesitation, to the hour when the lovely and accomplished daughters of Professor Webster, sustained, as they obviously were, by an entire conviction of his innocence, gave with mingled calmness and sensibility their modest and touching testimony in his behalf; and that more awful hour, when, nearly at the dead of night, we had assembled on the same spot to hear the verdict rendered, which consigned to an ignominious death one who had been the instructor of our earlier days, and with whom we had since continued to be on pleasant terms of social acquaintance and friendship. The moon was shining serenely and bright as I went forth from that sad scene; having looked for the last time on a fellow-being who, surrounded by the happiest domestic influences and affections had yet justly forfeited his life; not, however, I was willing to believe, for a deliberate, preconcerted, and cold-blooded murder, but for an act, originally done, as I was persuaded, under the sudden impulse of deadly passion; but which, when done, was concealed by a resort to the most frightful expedients of which we have any account in the annals of criminal jurisprudence.

There was a redeeming grace in the final conduct of Webster, which much softened the popular feeling against him; when his appeal for executive clemency had been made, and made in

vain ; when he knew that in a few brief days he must cease to be numbered among the living, — he addressed a submissive and penitent letter to an amiable and excellent clergyman, the near relative of his victim, asking through him the pardon of those into whose social circle he had brought such deep affliction. He asked him as a minister of the God of mercy to imitate his Divine Master, by showing mercy ; as a man to forgive a dying fellow-man, as he would himself hope to be forgiven. And he at last met his fate, not with the indifference of a hardened ruffian, but with a dignified self-possession, — a sustained fortitude and resignation, such as only true repentance (it would seem) could have inspired.

GLEANER.



LXIV.

JOHN CALLENDER AND THE LAW.

November 2, 1855.

MR. EDITOR:—The north-west corner lot, 60 feet on Mount Vernon street, and 103 feet 6 inches on Walnut street, was sold by Dr. Joy to John Callender, in 1802, and his heirs conveyed to him a lot adjoining (35 feet 11 inches on Mount Vernon street), in 1821. Mr. Callender was for many years the well-known clerk of the Supreme Court. In his younger days he was a person of much grace and elegance, and traditionally reputed to have been as good a dancer as one of Queen Elizabeth's Lord Chancellors. He was a person of much wit and humor. When the full Court at Washington reversed a decision of Mr. Justice Story, by which he had claimed jurisdiction in cases of policies of insurance as being maritime contracts, he was dining with the Judge, and, doubtless quite to his annoyance, began to joke about the topic, playfully suggesting to him that he had better bring a bucket of salt water into his court-room to sustain the jurisdiction.

When Mr. Callender built his house the level of Walnut street was very many feet higher than at present. The authorities cut down the street, leaving him *up in the air*. He was put to much expense in consequence, though his building did not actually begin to tumble into the pit, as Mr. Thurston's did. Like him he resorted to the law, and with the like success. The result was the source of anything but a placid demeanor on his part. Though himself a sworn officer of the law, I really believe that he was led to entertain serious doubts as to its being "the perfection of human reason."

The north-east lot, bounded 120 feet on Mount Vernon street, and 100 feet 8 inches on Joy street, was sold by Dr. Joy, in 1802, to Anna Dummer Perkins, wife of Thomas Perkins, Esq., and daughter of William Powell, Esq. She was sister of Mrs. Jonathan Mason, one of the original Mount Vernon proprietors. Dr. Joy, in 1805, also sold to her the next 30-feet lot on Joy street. On the latter lot stands the dwelling-house now occupied by Henry

B. Rogers, Esq., whose wife was one of her daughters, and who is so well known in this community as connected with our chief charitable and reformatory institutions, and who was some years since an Alderman of the city. On her original lot was erected a fine brick dwelling-house, of large and elegant proportions, in which she resided till her death, a smaller house being erected on the westerly side of the lot as the residence of another daughter, Mrs. F. C. Loring. The mansion house itself has just given place to three new dwellings erected by Wm. Gray, Esq.

It is under a contract between Mr. Perkins and Mr. Thorndike that the block of houses on Joy place was set back from the street. I trust that my friend, Mr. Lewis W. Tappan, will not think me too personal in remarking that the whole front of his house and part of that of his southerly neighbor stand on and over the fee of old Sewall street. This need be no source of alarm or uneasiness. Indeed I am inclined to think that *an ancient SQUAT is rather better than any other title*. There can be no question that from the beginning of the century to 1831, when *Tyler vs. Hammond* was decided, the law, *as before acted on and as then settled*, would have given the soil and fee of this old street to the heirs of Judge Sewall. It is equally certain that in 1851, by the decision of *Newhall vs. Ireson*, it would have been held that the deeds to Dr. Joy, bounding, as they do, north and south on that street, each passed to him a good title to the centre of the street; in other words, that his title had all along been perfect. Both these cases related to *public* highways; but I am informed that in an unpublished case recently decided (*Morgan vs. Moore*) the Court adhered to the last decision, yet refused to apply it to *private* ways, so that, after all, Judge Sewall's heirs perhaps would again come uppermost. But, happily above and beyond all these fluctuating adjudications, there was a certain *fence* put up more than forty years ago by Dr. Joy, which no adverse claimant can now jump over or knock down.

The doctrine that a deed bounding on a street, which is a visible, actual monument, really runs to an imaginary legal line or monument in the centre of that street (a monument, by the way, which the Court in 1831 declared had never existed, although in 1851 they say it had always existed), seems to me founded on a misconception of what a monument is. I believe that the rule of "monuments governing measurements" is founded on the idea that a deed should be construed by its language in reference to actual visible landmarks, such as fences, walls, or streets. In

1831, if a deed bounded by or on a public street, square, or common, in each case it included no part of such street, square, or common. In 1851, the Court, in the exercise of their judicial discretion, saw fit to decide that a deed bounding on a street should convey a fee simple title to the centre of the street. Why should not the same rule be applied to all public squares or areas? Is it not, indeed, quite possible that a conveyance of land bounding on Boston Common may legally give to the grantees liberal yard-room in front of their lots, even to the centre line of the Common itself? Such a decision would, *a priori*, be no more surprising than a change of doctrine which has already occurred in relation to abutters upon streets.

GLENER.

LXV.

THE COPLEY TITLE — ITS LARGE AREA.

November 6, 1855.

MR. EDITOR: — In our walk down Beacon street we have now the greatest estate in Boston, or *The Copley Title*. This is made up of three chief divisions. The easterly portion is composed of the various lots which together constitute the westerly moiety of Sewall's Elm pasture. This portion is about $2\frac{1}{2}$ acres, and is bounded east on Dr. Joy's land, now Walnut street. It extends on Beacon street more than 260 feet, including the stone mansion-house estate of Hon. David Sears, and a gore of the original garden lot of Mr. Otis, west of it. The westerly boundary of this portion is a line which meets Mount Vernon street at a point about 175 feet west of Walnut street, running diagonally through the lots on both sides of Chestnut street, which formerly belonged to Madame Swan's trustees.

Next west of Sewall's Elm pasture came a $2\frac{1}{2}$ -acre pasture of Francis East, also united in Copley. This extended on Beacon street to just about the east line of Spruce street, and the west boundary of East's pasture extended in a bevelling line to Mount Vernon street, which street it intersected a little west of the division line between the two elegant mansions of Messrs. John E. and Nathaniel Thayer. These pastures of Sewall and East were bounded in the rear by irregular lines extending into, and in some parts to or slightly beyond the north line of, Mount Vernon street.

Finally comes the Blackstone six-acre lot. This bounds south on Beacon street to the original channel, which was many hundred feet west of Charles street, or about to the lowest long block of dwelling-houses now completed on the Mill Dam. On the east line it extended along East's pasture, and beyond it on land of Allen or Wheelwright, and to within a few feet of Pinckney street, to a point which is nearly in the range of the westerly part of the School-house estate, at the corner of Centre street; it thence extended along in the direction of Pinckney street westerly, so as to include all Louisburg square, till it met a line about 50 feet west of the west line of Louisburg square, where it was

bounded on the pasture of Zachariah Phillips, on which pasture it afterwards bounded northerly by a line running to the water.

The dimensions of the southerly lots of Zachariah Phillips's pasture are so loosely given by the deeds that the extreme southerly line of that pasture and, of course, the extreme north line of the Blackstone, or Copley lot, cannot, perhaps, be stated with precision; but it extended at least as far as, and probably north of, Mount Vernon street. And, as we have stated in an earlier article on Phillips's pasture, the Copley deed, which ran along towards the water by a line at most 20 feet south of Pinckney street, was made, by a certain ancient fence, and the possessory acts and claims under it, to run to the water, and to sweep across all these southerly lots of Phillips; or, in other words, the Copley grant was extended by disseisin to a continuous north line, ranging but a few feet south of Pinckney street.

The result is, that the estate held under John Singleton Copley embraces all that extensive territory between low-water mark on the west, the Common south, Walnut street east, and Mount Vernon street north, as far as the east line of the house of William Sawyer, and then including that house and the land behind it, and all Louisburg square, etc., west of it. It extends, by a northerly line nearly coinciding with Pinckney street, to low-water mark. The 6 acres of Blackstone, the $2\frac{1}{2}$ of East, and the $2\frac{1}{2}$ of Sewall, make a total of 11 acres of *upland*; and if to this we add the flats, a large portion of which have been filled up for over 40 years, there is a grand total of certainly not less than 20 acres, and, covered as it now is with splendid private residences, it far surpasses in value even the magnificent estate of Governor Hancock, with its costly public edifices.

GLEANER.

LXVI.

EAST'S 2½-ACRE PASTURE.

November 9, 1855.

MR. EDITOR: — Before proceeding to make any remarks on the particular houses standing upon the Copley lot, it will be more convenient to trace the several purchases made by him, and which were included in his sale to the Mount Vernon proprietors.

We have already stated that he acquired the westerly moiety of Sewall's Elm pasture, or about 2½ acres, by deeds, in 1770–1773, swallowing up or fencing in all Coventry street and the westerly part of Sewall street. The westerly lots of this Sewall land are included in the deed of Dr. Silvester Gardiner to Copley, July 5, 1770 (L. 117, f. 129), the boundary being westerly, on land of said *Copley*, 467 feet 8 inches, and north-west, on land of Jeremiah Wheelwright (*i.e.*, the Allen pasture), 127 feet 4 inches. The earlier deeds of these same lots among the Sewall heirs, 1732 (L. 47, f. 192–194), bounded west on land of Banister.

Now, next west of this Sewall land came the original possession of Francis East, who must have owned as early as 1667, being named as an abuttor in a deed recorded in Lib. 5, fol. 234. In the town records is the following entry: "July 1, 1678. In answer to the desire of Francis East to have recorded in the Towne book a tract of land containing about 3 acres, bounded with Capt. Brattle north [he sold to Allen, &c.]; the town's Common, south; the land of Nathaniel Williams, west [*i.e.*, the Blackstone lot], and the land of William Hawkins, Sen. (Hawkins owned Sewall's Elm pasture), on the east, *which was formerly a town grant and no record appearing, having been long in possession of said East*, now ordered that this record be made thereof." (Boston Records, Lib. 2, fol. 116.)

It would seem that Francis East died, leaving a son Samuel, who died seized of this pasture in 1693. His widow, Mercy East, as administratrix under license of the Superior Court of Judicature, at term 1693, sold the same to Thomas *Banister*, by deed dated Nov. 24, 1694 (L. 17, f. 23), "*two acres and near an half bounded*

east on Samuel Sewall, south on the Common, west on Capt. Nathaniel Williams (*i.e.*, Blackstone lot), north on Nathaniel Oliver (who sold to Allen), measuring on the east side 26 rodd and 11 feet, on the south side 12 rodd 13 feet, on the west side 35 rodd and 11 feet, and on the north side 14 rodd and 8 feet." Samuel East, as eldest son of the intestate, released to said Banister all his right by deed, indorsed on and recorded with the above.

The definite measurements in this deed have enabled me to fix with precision the lines of this pasture, notwithstanding it comes in the centre of Copley's estate, and the westerly lot purchased by Copley has no measurements whatever. If this deed had given no measurements it could only have been a matter of "guess" what was the exact westerly boundary line of this pasture, or, in other words, the exact easterly line of Blackstone's 6-acre lot. Mr. Banister, the grantee in this deed, acquired also the Blackstone lot, making his whole ownership $8\frac{1}{2}$ acres. And the title *from* him I shall trace down, after first getting that purchase *into* him, in a subsequent number.

GLEANER.

LXVII.

HISTORICAL.

November 12, 1855.

MR. EDITOR :— In our last article we traced into Thomas Banister, in 1694, the East pasture of $2\frac{1}{2}$ acres, bounded west on land of Nathaniel Williams. Now, we long since called upon William Blackstone, and have seen that the town granted to him 50 acres, and that when he sold out to the town all his right in the same and in all lands on the peninsula, he retained to himself a 6-acre lot, which he subsequently sold to Richard Pepys, while the town, in 1640, passed a vote not to grant any more house-lots within certain limits ; the consequence of which vote was the Boston Common, which was doubtless, in great part, the residue of the 50 acres granted to Blackstone. We have also referred to the celebrated depositions of Odlin and others (and of Anne Pollard, 1711, L. 26, f. 84).

From the deeds of Cole to Phillips, 1658, and of Phillips to Leverett and wife in 1672, of the Zachariah Phillips pasture in the rear, it is certain that in 1658 this 6-acre lot belonged to " Nathaniel Williams," and that, in 1672, it was " the occupation of Peter Bracket, or other successors of Nathaniel Williams, deceased." In 1638 there is a town grant in the new field near Mr. Blackstone's (Records, f. 64, 27th 12th 1642.) William Colbron and Jacob Eliot are appointed to view a parcel of land toward *Mr. Blackston's beach*, which *Richard Peapes* [*i.e.*, Pepys] desires to purchase of the Towne, whether it may be conveniently sold to him.

(Vol. 4, f. 6.4) Richard Pepys and Mary, his wife, of Ashon, Essex County, conveyed to Nathaniel Williams, by act dated January 30, 1655, expressly referred to in the deed of 1676, hereinafter mentioned. Williams died, and his widow Mary married Peter Bracket before March 6, 1664 (see deed in 4, f. 264), and Peter Bracket and Mary, his wife, late widow of Nathaniel Williams, in consideration of her natural love to Nathaniel Williams, and Mary Viall, children of said Mary by her first husband, conveyed to them, three-quarters to said Nathaniel and one-quarter to said Mary, by deed of gift, April 14, 1676 (L. 9, f. 325), " all that messuage with

the barnes, stables, orchards, gardens, and also that six acres of land, be it more or less, adjoining and belonging to said messuage, called the Blackstone lot, being the same which were conveyed to said Nathaniel by Richard Pepys of Ashon, Essex County, and Mary, his wife, as by their act, bearing date Jan. 30, 1655, more fully will appear."

There being no description in this deed, the land might be at Barton Point as well as at Beacon street; but, independently of the depositions referred to, the deeds of the adjoining pasture of Zechariah Phillips in 1658-72 fix the lands of *Nathaniel Williams* in 1658, and in occupation of Peter Bracket, etc., in 1672, to be in this precise locality.

I am sorry to say that I have never succeeded in getting Mrs. Viall's one quarter part into her brother by any deed on record. But, as few men are so depraved as to rob a sister, I am charitable enough to believe that he bought her out honestly, though he may have omitted to record his deed. At any rate, his present successors will probably feel that they are now, as a practical matter, reasonably safe under the following deed, viz.:—

Nathaniel Williams, and Sarah his wife, in consideration of £130 in the present current money, conveyed to Thomas Banister yb warranty deeds Jan. 29, 1708-9 (L. 24, f. 103), all that his, the said William's, certain orchard and pasture land, containing in the whole, by estimation, six acres, or thereabouts, be it more or less, situate, lying and being at the lower or north-westerly side of the Common, or Training Field, in Boston aforesaid, being enclosed and within fence, and the flats lying against the same down to low-water mark. The said upland and flats being butted and bounded on the northerly side in part by Charles river or a cove, and partly by the lands of John Leverett (*i.e.*, Phillips pasture) and James Allen, on whom also it abuts to the north-east, bounded easterly in part by land of the said James Allen, and partly by the land of the said Thomas Banister. (*i.e.* East's pasture), and southerly by the Common or Training Field, or however otherwise the same is bounded or reputed to be bounded; together with all the trees, stones, fences, banks, ditches, waters, and water-courses therein or thereabout, and belonging thereto, rights, members, hereditaments, profits, feedings, privileges, and appurtenances thereof.

Seventy-two dollars an acre for upland, with the flats thrown in, is rather cheap for land on Beacon street, even 150 years ago.

GLENER.

LXVIII.

HISTORICAL.

November 16, 1855.

MR. EDITOR:— In 1709 we have seen that Thomas Banister had purchased both the East and the Blackstone lots, making together $8\frac{1}{2}$ acres of upland. The name of "Mount Pleasant," so familiar to our Roxbury neighbors, was given also to this estate.

I once saw a very large and accurate plan in the possession of the Mt. Vernon proprietors, made 60 or 70 years ago, which was entitled by the surveyor, in large and elaborate letters, a plan of "Mount Hoardam." This struck me as a very ingenious and modest way of conforming to the then popular nomenclature of the spot, without giving offence "to ears polite."

Banister died, leaving a will dated Jan. 25, 1708–9, and codicil dated July 13, 1709; and his wife died in 1711. By his will he devises to his three sons, Thomas, Samuel, and John, "and if either die without heirs lawfully begotten in wedlock, I will their share or proportion to the surviving sons or son and their heirs forever."

Besides these three sons the testator left an only daughter, Mary, wife of Giles Dyer. John died without issue in Great Britain, June 30, 1714. Thomas died Sept. 12, 1716, leaving issue five sons and a daughter, and Samuel died without issue, Feb. 28, 1744.

In 1713 Samuel and John had made Thomas their attorney (L. 28, f. 151), who for himself, and "as such attorney," after the death of one constituent, and by deed not executed in the names of either constituent, conveyed to Giles Dyer (28, f. 152), who covenanted to reconvey on certain payments (Ib., f. 153). Said Thomas, for himself, and "as attorney of Samuel," reciting the death of John, conveyed to said Dyer, Dec. 10, 1714 (L. 28, f. 242), other lands; "also the one moiety or half part of all that tract or parcel of land in the town of Boston aforesaid, bounded easterly on the Common or Training Field, containing by estimation about eight acres, and known by the name of Mount Pleasant, in the tenure or improvement of John Langdon, butcher." Did he have a slaughter-house on the premises?

And Giles Dyer, reciting these two deeds of Thomas Banister to him, for £1,000 consideration conveyed to Samuel, June 21, 1717 (L. 32, f. 1), "all the housing lands, tenements and real estate granted and sold to me the said Giles Dyer in and by the said two deeds" (except other land). I am sorry to say that I find two mortgages of Samuel Banister, one for £250 in 1716 (L. 32, f. 1), the other for £200 in 1719 (L. 33, f. 261), both undischarged. He made a final mortgage for £1,850 to Nathaniel Cunningham by warranty deed, Dec. 28, 1733 (L. 48, f. 53), under a foreclosure of which the absolute title was claimed by Cunningham.

The description in the deed to Cunningham was as follows: "All that his the said Samuel Banister's certain tract or parcell of land which is now improved as a garden, and enclosed within fence with the dwelling-house thereon standing, situate, lying and being at the lower or north-westerly side of the Comon or Training Field in Boston aforesaid, containing in the whole, by estimation, *eight acres and an half* or thereabouts, and be the same more or less, and the flatts lying against the same down to low-water mark. The said upland and flatts being butted and bounded as followeth, viz.: southerly or south-easterly on the Comon or Training Field; on the north-westerly side in part by Charles river, or a cove, and partly by the lands of the late John Leverett, Esq., and Mr. James Allen, both deceased, their heirs or assigns, on whom also it abutts to the north-east, and easterly by land of the heirs or assigns of the late Samuel Sewall, Esquire, deceased, or how-ever otherwise butted and bounded," etc.

Nathaniel Cunningham died, and by will, dated May 1, 1740, proved December 27, 1748, made his son Nathaniel residuary legatee, who was appointed administrator with the will annexed, and died in 1757, Peter Chardon being administrator. His inventory mentions "a house, land, and pasture at the bottom of the Common, occupied by Mr. Chapman and others, containing 8½ acres, £250" (L. 53, f. 61). So that less than a century ago land in Beacon street (flats thrown in) was worth but 97 dollars an acre.

GLEANER.

LXIX.

[COPLEYS TITLE. — *Continued.*⁵⁷]

November 19, 1855.

MR. EDITOR: — We left in Nathaniel Cunningham, deceased, under the administration of Peter Chardon, in 1757, the 8½ acres of upland, with the flats, composed of the East pasture of 2½ acres and the Blackstone 6-acre lot. Under the will of the old owner, Thomas Banister, who had devised, in 1709, in tail to his three sons, with cross remainders on their death without issue, claims were repeatedly set up. Thus, in July, 1750, John Banister, Samuel Banister, and Wm. Bowen, and Francis, his wife, grandchildren of said testator, brought an ejectment against Cunningham, which was decided in favor of tenants; and in August following the jury on appeal gave the same verdict. In February, 1753, the same demandants brought a writ of review before the Superior Court, and in August following the jury found a special verdict; and in March, 1754, the Court, after a full hearing, gave judgment in favor of the tenants. In January, 1765, John Banister brought his writ of ejectment, which was carried to the Superior Court by demurrer, and dropped by his death, which took place Nov. 10, 1767.

And now, during the lull that ensued, as is alleged, "on January 18, 1769, Peter Chardon, Esquire, as executor of Nathaniel Cunningham, executed a deed of conveyance to John Singleton Copley of these premises." No such deed, however, is found on record; and, more than that, the proceeds of the estate were not accounted for in the Probate Office by Mr. Chardon, as administrator, with the will annexed.

On March 29, 1769, John Banister, of Newport, brought an ejectment against Ephraim Fenno. At the Inferior Court of April, 1769, said Copley was vouched in as defendant, and the case was carried by demurrer to the Superior Court, and decided in Colpey's favor.

The late Hon. Robert T. Paine, on January 31, 1809, gave his deposition in perpetuum for Messrs. Mason and Otis, in which he

⁵⁷This title is supplied by me, as the original is styled simply "Historical." — W. H. W.

states that "in 1769 he was counsel for Mr. Copley in this last suit; that he preserved a bundle of minutes, among which is the statement of title (of which the particulars are above noticed, *including the mention of the deed to Copley*), which he has no doubt was given him by said Copley or by Samuel Quincy, his counsel, and which he has no doubt is a true abstract of Copley's title as derived from Thomas Banister, and was prepared from the documents to be used in said trial; *that he believed the question of title under Cunningham was not in dispute*, but was acknowledged, and it was expected that the cause would turn upon the question of cross remainders, under Thomas Banister's will, and that the cause was determined in favor of Copley; that he knew the premises in 1760, and pastured his horse there; that Ruth Otis, wife of James Otis, was living in Boston, and he an eminent lawyer, knowing the demand of Banister, and arguing a case arising under the same will, and that from and after the verdict of Copley, I always understood that the premises were his property till I heard that he had sold them, so that they came to the possession of Messrs. Mason and Otis" (221, f. 107). This Banister family owned a valuable estate on the south side of Winter street, which, from that circumstance, was long known as "Banister's Lane."

It will be remembered, also, that the deeds of the westerly lots of Sewall's Elm pasture, bought by Copley in 1770, bounded west on this land, as then belonging to said Copley. It will also be remembered that there are two volumes of deeds missing, in one of which we may charitably suppose Mr. Copley's deed to have been recorded. Another valuable tract of the Leverett-street lands, formerly belonging to the same Mr. Cunningham, is also held under a deed *from* Mr. Copley, in 1771 (L. 119, f. 191), though there is the same absence of any deed *to* him.

This want of any record title in Copley, as to these whole 8½ acres, eventually proved a very serious source of trouble to his grantees.

GLEANER.

LXX.

COPLEY'S SALE IN 1795.

November 23, 1855.

MR. EDITOR:— We left John Singleton Copley the owner in 1769–1773 of the whole three estates held under Sewall, East, and Blackstone, making together 11 acres of upland with the flats; there being this little omission, that he had no deed on record of $8\frac{1}{2}$ acres out of the 11, with all the flats; or, as perhaps it may be better stated, a record title to only the easterly $2\frac{1}{2}$ acres out of 20 acres of upland and flats. Mr. Copley was the most distinguished portrait-painter of America, unapproached by any successor except Stuart. The exquisite satin of his ladies' dresses and delicate tints of his luscious fruits gave great additional value to paintings which have preserved, in the most life-like manner, for the delight of a distant posterity, the fair and intelligent faces, the lovely or manly forms, of a past generation.

Mr. Copley removed to England, and Gardiner Greene, Esq., was his agent. Messrs. Jonathan Mason and H. G. Otis made a contract for the purchase of this estate, through the agency of Mr. Greene. When the deed was sent out for execution, Mr. Copley had ascertained that the State House was to be located near his estate, which, of itself, greatly enhanced its value; changing its character from mere pasture land on the outskirts of Boston to a central estate, extremely desirable for residences. He felt that important information had been withheld from him and from his agent, and refused to sign the deed. A bill in equity was brought to enforce the contract for sale. He probably found that there was no chance of escape, and the result was that he executed a letter of attorney to his son, — since Lord Chancellor Lyndhurst, — dated in October, 1795, which was recorded February 24, 1796 (L. 182, f. 182).

A gentleman of this city, now among its senior members, mentioned to me a few days since, that a lady, now deceased, once remarked to him that she attended a ball at the house of the late D. D. Rogers, before her marriage, and that young Mr. Copley

was present. That house, like all its neighbors, stood at some distance from the street, and was approached by a high flight of steps. On this occasion the same difficulty occurred as at Governor Bowdoin's dinner-party; but, of course, a young lady in a ball-dress could not resort to the same mode of escape as did the guests of His Excellency. On the contrary, notwithstanding the devoted services of her future husband, she made an involuntary and decidedly precipitate descent towards the street, — a circumstance which had impressed this occasion distinctly on her memory.

Mr. Copley's son and attorney came out to this country, having recently completed his professional studies, and said Copley, "now of George street, Hanover square, in the Kingdom of Great Britain, Esquire," acting by said attorney, for the consideration of \$18,450 conveyed to said Mason and Otis by deed of release (reciting a previous lease for one year, being what is known as a conveyance of lease and release), dated Feb. 22, 1796, recorded in Lib. 182, fol. 184.

No deed of any lands in Boston within a century will compare with this in importance. The description is, "All that tract or parcel of land situated in the westerly part of Boston aforesaid, bounded as follows: Southerly by a line abutting on the Common or training-field, running from the southern extremity of a fence erected by Doctor Joy; easterly by the said fence of said Doctor Joy; northerly by a line running from the northern extremity of the aforesaid fence; north-westerly 85 feet or thereabouts, abutting on Olive street; then by a line running south-westerly 120 feet or thereabouts, abutting on land formerly belonging to Jeremiah Wheelwright, Esquire; then by a line running north-westerly 220 feet or thereabouts, and abutting on land formerly belonging to said Wheelwright; then by a line running north-westerly 217 feet, abutting on land formerly belonging to said Jeremiah Wheelwright; lastly by a line running north-westerly *towards* the water, together with all the flats lying before the same, down to low-water mark, &c., &c., or however the same may be butted or bounded." No reference to title, and no statement of contents.

Taking into consideration the upland and flats both, this purchase is at a considerably less rate than \$1,000 per acre. Indeed, I have very little doubt that it conveyed at least 13 or 14 acres of *upland*, since his description *towards the water* being construed as meaning *to* the water, and being confirmed by a fence erected according, carried the line, as we have before stated, across the rear lots of Zachariah Phillips' pasture, and formed a basis of a

disseisin title to quite an additional number of acres of upland and flats, though it also contained the germ of one of the most celebrated and important lawsuits known in our day.

Copley personally executed a confirmatory deed, with release of dower, dated April 17, 1797 (L. 191, f. 168), which is not acknowledged. It is made to Mason and Otis and Mr. Joseph Woodward, who for \$5.00 released to them by deed in 1817 (L. 255, f. 246).

The description in this deed from Copley is as above, except that the corner of Dr. Joy's fence is said to be 185 feet from George, or Belknap, street, and that said fence runs at right angles with the southerly line of said Joy's land on Beacon street.

Thus it seemed that this great purchase was consummated in a manner satisfactory at least to the purchasers; but there was further tribulation and anguish in store for them. The litigation of the middle of the last century was to be again renewed on the same extensive scale, breaking out, however, in a new spot, — the want of any deed to Copley.

GLEANER

LXXI.

[COPLEY'S SALE. — *Continued.*"]

November 26, 1855.

MR. EDITOR: — As the law stood when Messrs. Mason and Otis made the Copley purchase, a "writ of right" to defeat a title might be brought by a claimant at any time within sixty years (Statute, 1786, ch. 13). On March 2, 1808, a statute was passed (Statute, 1807, ch. 75), that, from and after January 1, 1812, the sixty years should be reduced to forty; and thus the law continued till January 1, 1840, when the Revised Statutes made a further change, by reducing the limitation of forty years to twenty years (with certain savings). All these changes are in the right direction, — a remark by no means true of all recent legislation.

The statute of 1807, above referred to, besides the change of the period of limitation, introduced also an entirely new provision, and one of great importance as a matter of public policy, and entirely equitable in its bearings, viz., the "betterment law," by which a party who had had six years' possession and had made valuable improvements, or "betterments," should, on failure of title, be entitled to compensation for his improvements.

This betterment law was nominally asked for as being especially necessary in respect to lands in Maine; but it was, in fact, intended to apply to the Copley estate. The proprietors were daily giving warranty deeds, and in case of an ultimate eviction the constantly increasing value of the lands would make the final measure of damages very severe to the warrantors, and it would be utterly ruinous to them if purchasers could come upon them also for the whole cost of their improvements. If this real object had been disclosed, the Legislature would have refused to rich possessors in Boston the protection which they readily granted to poor squatters in Maine, viz.: a wise enactment applicable alike in both cases. The provisions of the betterment law have since been further extended, so as to protect any person buying in good faith, under a title believed to be good, and making immediate improve-

⁵⁶ New title. — W. H. W.

ments. The strong motives of self-interest on the part of these proprietors, and their adroit management, thus directly led to great improvements in the law of the land.

These proprietors were doubtless well aware, from the beginning, of the want of any deed to Copley from Cunningham's administrator. And the same discovery was also seasonably made by his heirs-at-law. Suits were accordingly commenced to dispossess Copley's grantees, and great alarm and anxiety resulted therefrom. The late Abraham Moore, Esq., was by marriage nearly connected with the claimant, and Mr. Otis, availing himself of his personal good offices and assistance, at last succeeded in obtaining a full release. This, I have always understood, was effected without the slightest suspicions of her counsel. I have been told, indeed, that Mr. Otis went into court, and in his blindest and most courteous manner moved that the suits should be dismissed. The opposite counsel naturally wished to know upon what specific grounds he made this unexpected motion. He suggested, in reply, the very conclusive one, of a full release in his pocket from the demandant herself. This, though not drawn up with the technical formalities of special pleading, proved probably as effectual a "rebutter" as was ever submitted to the decision of a court.

The claimant, Susanna Cunningham, was understood to have made an agreement with George Sullivan, Esquire, and Mr. Murray, by which they were to carry on the suits for her, and were to share largely in the expected "plunder." These gentlemen were fearful lest she should be tampered with, and *took possession* of her, keeping her secluded in Mr. Murray's estate on the North River, with as much vigilance as was shown of old in regard to the golden fruit in the garden of the Hesperides. But the fates were against them. The genius of Mr. Otis prevailed. Into this Eden the tempter entered as of old. The lady eloped from her *legal guardians*, as many a lady has done before and since; and she parted at last, not indeed with her *heart and hand*, but with her *title and estate*, by an unconditional surrender. Those who had bargained for her claim thus lost their share of the expected profits, and had the pleasure of paying their own expenses. Everybody was pleased at *their* disappointment.⁵⁹

Susanna Cunningham, of New York, in consideration of five dollars, quitclaimed to said Mason and Otis, and to Benjamin Joy,

⁵⁹ It is but fair to state that the opinions expressed by Mr. Bowditch in these articles are entitled to only such weight as his character may give them. Their reproduction is necessarily without examination or endorsement. — W. H. W.

"all the right, title, interest, demand, or estate, which I have or may have by any ways or means whatsoever, in and to a certain tract of land in Boston, containing by estimation $8\frac{1}{2}$ acres, bounded southerly by Beacon street, north-westerly on Charles River in part, and partly by land formerly of John Leverett and Mr. James Allen, north-east and northerly by land formerly of said Leverett, of James Allen, and Nathaniel Oliver, and easterly partly on land formerly of Samuel Sewall, now John Vinal's, and partly by land of said James Allen, together with all the flats lying before the same to low-water mark, or however the same may measure or be bounded, the said land being the same which said Mason and Otis, and Joy, or one of them, or persons claiming under them, or some of them, now hold in their actual occupation, and are the same lands conveyed to said Mason, Otis, and Joy by deed from John S. Copley to hold to them, their heirs and assigns, according to their own deeds, agreements and partitions among themselves."

This deed is dated, acknowledged, and recorded August 17, 1812 (L. 240, f. 250).

That was a happy day for these purchasers. They doubtless all slept the more soundly the next night than they had for some time. It is generally believed, however, that *five dollars* does not express the *exact sum* paid to quiet this claim. It has been suggested that quite a number of thousands of dollars were really paid, and that even Mr. Moore had a very respectable fee for his services. It may, at least be safely said, as in the case of the State-House wall, "the cost somewhat exceeded the estimates." GLEANER.

LXXII.

[COPLEY'S LAND. — *Concluded.*⁶⁰]

November 30, 1855.

MR. EDITOR : — The Copley purchase bounded in the rear almost wholly on Allen's pasture, large portions of which became also vested, as we have seen, in the same purchasers, partly by deed of Enoch Brown's heirs, and partly by the deed of the devisees of Jeremiah Wheelwright. In Lib. 192, fol. 198, is a great plan of all these purchasers, the dotted lines of which show the lines of the Copley deed, *as claimed to run*; and from this survey it appears that these three purchases together gave the proprietors a tract of land bounded southerly on Beacon street, 850 feet 8 inches; easterly on Dr. Joy's land (or Walnut street), 457 feet 4 inches; south on Dr. Joy's land (or Mt. Vernon street), 305 feet 1 inch; easterly again on Belknap street, 236 feet 1 inch; then north on one of the lots of Cooke's pasture, 77 feet; easterly again on ditto, 83 feet 9 inches; and then north by a general straight line to the water. This last line coincides with the rear line of the estates on the north side of Pinckney street, as subsequently laid out.

On this plan appear the old powder-house, near the north-west corner of the tract, and two dwelling-houses fronting towards Beacon street, near its south-easterly corner. One of these houses was formerly occupied by Copley. For several years they had been occupied; the first by Charles Cushing, Esq., and the other by "Master Vinal." The Cushing house is the source of title to the block now owned and occupied by Messrs. Nathan Appleton and Henderson Inches; while "Master Vinal" is represented by Hon. David Sears.

One very observable fact is, that on this plan the lots of Zechariah Phillips's pasture, which should have been delineated at its north-westerly corner, do not appear. Not only is the Copley lot extended to the water, instead of *towards* the water, but the extreme north line of the whole plan, or the south line of the rope-walks of Swett, Farley, and Hammond, is extended beyond the west end of the rope-walks, in the same direction, to the water.

⁶⁰ New title. — W.H.W.

In other words, *the pasture bought of Wheelwright's devisees is made to sweep across these lots, precisely as the Copley estate is made to do; and this although the deed of Wheelwright's devisees did not pretend to run towards the water, but bounded westerly on these Phillips lots.* The lots of Zechariah Phillips's pasture, the existence of which is thus ignored on the plan, were likewise ignored in fact. The Latin maxim was acted on, — *De non apparentibus et de non existantibus eadem est lex.*"

As one and another of the owners of these lots came forward and claimed their rights they were settled with. Thus, Samuel Swett sold one lot in 1803 (L. 207, f. 115). The heirs of Tilley quitclaimed in 1814, etc. (L. 410, f. 155–156; L. 249, f. 136), the lots subsequently sued for by the Overseers of the Poor, claiming under foreclosure of mortgage made by the ancestor; and William Donneson conveyed one lot even as lately as 1828 (L. 338, f. 213). These proprietors also purchased very many of the water-lots of Zechariah Phillips's pasture, lying north of the range of their original purchase, so that they were separated from Cambridge street only by Mr. Bulfinch's land.

The Mount Vernon proprietors were Jonathan Mason and H. G. Otis, each three-tenths, and Benjamin Joy two-tenths; while the remaining two-tenths were held by General Henry Jackson, and more recently by Wm. Sullivan, as trustees of Hepsibah C. Swan, wife of James Swan, Esq., and subject to her appointment. Various partitions were made by mutual releases, by indentures of division, and by order of court. A partial division was made by the indenture recorded with the plan above referred to, on which appears, for the first time, Walnut street, Chestnut street, Mount Vernon street (west of Belknap street), and Pinckney street. The indenture laying out Louisburg square, etc., was made in 1826 (L. 312, f. 217, etc.). A large division of the lands, east and west of Charles street, etc., had been made in 1809, by order of court, as per plan at the end of Lib. 230; and another, of the lands west of Charles street, and north of the Mill-dam in 1828, the plans being recorded at the end of L. 330.

On the first old plan of L. 192, the sea came up to a point 850 feet west of Dr. Joy's fence, or to a point 143 feet east of the east line of Charles street. This would reach to the easterly corner of the house next east of Mr. John Bryant's, on Beacon street; and accordingly, Mr. Bryant informs me, that when he dug his cellar he came to the natural beach, with its rounded pebble stones, at the depth of three or four feet below the surface. The barberry bushes

speedily disappeared after this Copley purchase. Charles street was laid out through it, and lots sold off on that street in 1804. The first railroad ever used in this country was here employed, an incline plane being laid, down which dirt-cars were made to slide, emptying their loads in the water at the foot of the hill. It was not, however, until Mr. Otis himself became mayor that the final improvements of digging away May street and the adjoining lands, and reducing the hill to its present grade, were completed. On this occasion I remember one "black" tenement perched up in the air at least 15 feet above its old level. These final measures, though certainly important to the public convenience, happened also to be very beneficial to the Mount Vernon Proprietors, affording another instance in which their interests and those of the community, being identical, were advanced by one and the same instrumentality.

GLEANER.

LXXIII.

MOUNT VERNON STREET.⁶¹*December 4, 1855.*

MR. EDITOR: — On the Copley estate live, or have lived, a large proportion of those most distinguished among us for intellect and learning, or for enterprise, wealth, and public spirit. I do not propose to be guilty of the impertinence of saying much about private individuals because they happen to live in a certain locality. I shall merely mention a few incidents and facts which occur to me. The easterly part of Copley's estate is, as we have stated, composed of $2\frac{1}{2}$ acres of Sewall's Elm Pasture. Sewall street, as laid out in 1732, would extend west of Walnut street about 200 feet, and would destroy the out-buildings of about the first eight or ten houses on Chestnut street; and, though Mr. Sears is one of the last of our citizens whom we would feel inclined to send to or put in "Coventry," I am sorry to say that *Coventry* street, as laid out in 1732, runs north from Beacon street 140 feet west of Walnut street, and would therefore pass directly through his elegant estate. The Massachusetts General Hospital has two free beds for surgical cases to be forever supported from the income of Mr. Sears' bounty, who also contributed generously to the enlargement of its buildings in 1846. Desirous that his children, during his life, should enjoy the benefits of his wealth, he has displayed towards them and their families a liberality unsurpassed in this community, while, at the same time, he has never overlooked or disregarded any just claims of the public. I should, therefore, be truly sorry that he should be rendered houseless by this venerable highway.

The outstanding fee of or easements in these ancient streets will not, however, probably very seriously effect the present market value of any of these estates.

The Mount Vernon Proprietors sold, in 1804, to Richard C. Derby, a lot measuring 73 feet on Chestnut street, and extending back on land of Otis 150 feet to Olive or Mount Vernon street, on which he erected a mansion-house fronting on Chestnut street,

⁶¹ New title. — W.H.W.

which he occupied for many years. Mount Vernon street, when actually laid out, proved to be about 165 feet from Chestnut street at this spot. There was consequently a gore of land on Mount Vernon street, in front of the stable built by Mr. Derby, on what he supposed to be the line of that street, and which the measurements of his deed did not cover. This surplus gore of land must have been peculiarly unsightly to the Mount Vernon Proprietors, as it kept constantly before them, probably, the only instance in which they had parted with more than they intended. This estate was sold in 1846 to the Messrs. Thayer, whose two freestone houses were erected fronting on this latter street. A remarkable change was thus wrought, since only a few years ago horses were groomed and carriages washed amid the litter of a stable, where are now two of the most lofty vestibules and magnificent drawing-rooms in Boston.

It has been said that an absent-minded fellow-citizen, when travelling, once bought his own boots. It is certain that two of our most intelligent citizens, formerly residing in Beacon street, deliberately *bought their own houses*. One of them had on various occasions *spoken* about selling his estate, and a broker, one day, said to him, "Oh, it is very well for you to *talk* in this way. You dare not name a price which you will be willing to take." The owner, piqued by this challenge, instantly replied, "Yes, I will. I will take \$50,000." — "I will give it," was the equally instant and appalling rejoinder. The owner, of course, could not refuse to sign a written agreement, thus making himself legally responsible. But the unwillingness of a member of his family to remove led him to propose a reference in regard to the question of damages, and the result was that he remained in his own house at the price of ten thousand dollars. *He, as may be easily believed, never offered it for sale again.* After his death it became the property of Henderson Inches, Esq. Another gentleman himself repented of a sale on sober second thought, and voluntarily rescinded the contract at the same cost. His house is now owned by William H. Prescott, the historian.

Mr. Otis erected an elegant mansion on Mount Vernon street, which he occupied for some years. It was subsequently sold to the wife of Col. Benjamin Pickman, of Salem, for \$29,500 (in 1805, L. 211, f. 156), who, altering his mind as to his intended removal to this city, sold it for \$18,700 (in 1806, L. 217, f. 232), to John Orborn. It was for many years the residence of Mrs. Gibbs, widow of the distinguished Newport merchant, who bought

it of Mr. Osborn in 1809, for \$28,500 (L. 230, f. 179 ; L. 234, f. 262), and her daughter, Miss Sarah Gibbs, became the owner, in 1828, at a cost of \$25,950. Samuel Hooper, Esq., bought of her in A.D. 1845, for \$48,000 (L. 544, f. 233), and, after selling off the house-lots on Pinckney street, sold the residue for \$70,000 to the Misses Pratt, in 1853. Though thus curtailed, it is still one of the finest private residences left in the city.

East of this mansion is a block of buildings, erected 30 feet back from the street, under an agreement in A.D. 1820, imposing mutual restrictions between the late owners, Benjamin Joy and Jonathan Mason, deceased (L. 269, f. 304) ; and a like restriction in a deed of Mr. Swan's lot in 1832 (L. 358, f. 2). The first house in this block stands, indeed, partly on Miss Gibbs's lot, and was the residence of her brother-in-law, Rev. William Ellery Channing, who has a world-wide celebrity as a theologian and philanthropist.

On the west of this Otis mansion is a large lot, on which stand two houses fronting on Mt. Vernon street, besides smaller houses in the rear, fronting on Pinckney street. This was sold in 1805 to Charles Bulfinch (L. 214, f. 18), who in 1806 divided the front into two lots, by deeds (L. 215, f. 147 ; L. 217, f. 69). The easterly of these two houses was built by Stephen Higginson, Jr., and is owned by William Sawyer, Esq., one of our oldest retired merchants, formerly a partner of the late Thomas Wigglesworth. With him resides his sister, Mrs. George G. Lee, the well-known authoress. The other house was built and formerly owned and occupied by General David Humphreys, whose widow, a native of Portugal, at an advanced age, married a French Count Walewski (about A.D. 1830). At her request, the late Hon. John Pickering "gave her away," much to the amusement of his friends. He advised her to secure her property to her separate use. She, however, declined doing so, remarking: "It is delightful to us women to feel ourselves dependent for everything on the man we love." Her sentimental bridal illusions were, however, speedily dissipated, as in the similar case of Madam Haley. Her husband, doubtless, took a more matter-of-fact view of the ceremony, and perhaps was even then thinking of — *this land*. At any rate, she soon died, and this estate, converted into cash, was remitted to Paris (L. 351, f. 34 ; L. 373, f. 23), to replenish the finances of "the Count."

GLENER.

LXXIV.

THOMAS L. WINTHROP AND JOHN PHILLIPS.

December 7, 1855.

MR. EDITOR:—The first dwelling-house on Beacon street held under the Copley title is that at the corner of Walnut street, owned and occupied by the family of the late Thomas Dixon. By the great indenture of division in 1799 (L. 392, f. 198), it was assigned to Jonathan Mason, who, in 1804, sold the same to John Phillips (L. 208, f. 223). He died in 1823, and his heirs in 1825 conveyed to Thomas L. Winthrop, who died 1841, when his executors conveyed to Mr. Dixon. This estate was, therefore, for many years in succession, the mansion-house estate of Mr. Phillips and of Mr. Winthrop.

No office in this country is hereditary except, as it would seem, that of Register of Deeds, which, in this country, has been held by grandfather, father, and son (Henry, William, and Henry Alline), whose next immediate predecessor (Ezekiel Goldthwait) was the lineal ancestor of the wife of the present incumbent. This tenure, during four generations, of an elective office, indicates some substantial merits as the basis of popular favor.* In like manner one of our earliest governors was John Winthrop. Another, equally distinguished, was James Bowdoin. The late Thomas L. Winthrop, a lineal descendant of the former, and who married the grand-daughter of the latter, was himself elected for seven successive years (1826–1832) Lieut.-Governor of the Commonwealth. His son, the late Grenville Temple Winthrop, who some years since closed a retired life in a neighboring town, was formerly commander of that well-known corps, the Boston Cadets. On an intensely cold election day the company was not seasonably ready to attend upon his Excellency Governor Lincoln, at the conclusion

* Mr. Goldthwait's first signature as Register is to a deed recorded Nov. 6, 1740, L. 60, f. 77, and his last to a deed recorded Jan. 17, 1776, L. 127, f. 31. It is a remarkable fact that both he and his immediate successor died in office *blind*. I shall gladly continue to vote for our present competent and courteous Register until he becomes *blind*,—a disability which I sincerely hope will never befall him. I am convinced that while he has his eyes the public will not find a more faithful servant. [AUTHOR'S NOTE.]

of the services at the Old South Church. The undignified haste with which they left their snug quarters and pleasant refreshments at the Exchange Coffee House, and ran along the streets to overtake the Commander-in-Chief, afforded much innocent amusement; but, as a breach of military etiquette, the indignity could not be overlooked. The result was a court-martial, and the proceedings led to a voluminous publication in two octavos, which a friend once playfully pointed out to me as "*Winthrop's Works*."

Distinguished as was the late Lt.-Governor Winthrop in his lifetime, he will hereafter be better known as the father of a more distinguished son, Robert C. Winthrop, who, under the doctrine of hereditary descent, based upon merit, may well aspire to the same high position which has been so honorably filled alike by his paternal and maternal ancestors.

However much our views may differ on the subject of slavery, I do not believe that the interests of the character of our old Commonwealth would suffer at his hands. So, too, the late John Phillips, for ten successive years the President of our State Senate, and though selected, from his personal popularity, above all others, to be the first Mayor of Boston, will be — nay, is already — chiefly remembered as the father of Wendell Phillips. As an advocate in any event of disunion, I totally dissent from his views; but much should be pardoned to an honest zeal in a righteous cause. As long as a slave shall tread upon that soil which of all others in the world seems especially consecrated to freedom, aye, long after that foul stigma shall have been effaced from our national character, — as God, in his mercy, grant that it speedily may be, without civil dissensions and fraternal bloodshed! — the classic erudition and the dignified eloquence of *Sumner*, the graceful delivery, the fervid oratory, the sometimes too impassioned denunciations of *Phillips*, will have made their names household words as among the foremost of those who in any age or country have vindicated the cause of oppressed and degraded humanity. I rejoice to believe that the coldness, the bitterness, the social proscription of to-day will be amply atoned for hereafter by the gratitude of a *united, happy, and free* people.

It is a remarkable circumstance that the estate should have been derived by the great anti-slavery champion by regular conveyances from Jonathan Mason, one of the few Northern men whose votes established the *Missouri Compromise*. And nothing indicates more strongly the subsequent retrograde movement of the nation on this subject than the fact that we are now seeking, and probably

seeking in vain, to procure even a restoration of this very compromise, which, when it was first forced upon us, was regarded with universal and unmitigated detestation. We bartered away our birthright, and have lost even the poor pittance for which we bargained.

GLEANER.

LXXV.

BEACON STREET.⁶²*December 11, 1855.*

MR. EDITOR : — Next west of Lt.-Governor Winthrop's house is that of Hon. Nathan Appleton. As an associate of the late Francis C. Lowell and P. T. Jackson he participated largely in the creation of the great manufacturing interest of New England, and is probably now as well informed in relation to that subject as any one among us. As a member of Congress he was opposed to Henry Lee, who advocated free trade in opposition to "the American system." In my father's household were four voters. He himself was a warm partisan of Mr. A., but two of us "young Americans" could not be convinced by his arguments, and so the entire family turned out at the polls and exactly neutralized each other. Mr. A. is a brother of the late Samuel Appleton, and the family name still preserves its ancient brightness. Of his two elder daughters one is married to the son and biographer of Sir James Mackintosh the Governor of St. Christopher's, the other to the poet Longfellow. At the last commencement of Harvard College, Mr. Appleton received the honorary degree of Doctor of Laws.⁶³

Elizabeth wife of Charles Cushing, Esq., in 1796 acquired a lot 73 feet on Beacon street by 165 feet deep (L. 184, f. 90), and he purchased the adjoining 25-feet lot, 1804 (L. 210, f. 25). Their children conveyed in 1816 to Nathan Appleton and Daniel P. Parker (252, f. 69), who erected two elegant brick mansions.

Mr. Parker was an active and successful merchant, and at his death owned one of the finest vessels in the port, to which he had given the name of his friend and neighbor, Samuel Appleton. He was for several years a trustee of the Massachusetts General

⁶² New Title. — W. H. W.

⁶³ Mr. Appleton died July 14, 1861. — W. H. W.

Hospital. He left one son, Henry Tuke Parker, and two daughters, the eldest of whom is the wife of Edmund Quincy.

Mr. Cushing was a well-known citizen,— the Clerk of the Courts ; and the testimony of his son of the same name — a gentleman of intelligence and high standing — was of great importance to the Mt. Vernon Proprietors in the suits brought by the Overseers of the Poor. He remembered that Copley's fence joined on the old powder-house, thus establishing an ancient monument.

The stone mansion of Mr. Sears was originally a much lower building, having only one bow in the centre, instead of two bows or projections. It fronted on a yard or carriage-way, laid out on the easterly side of his lot. It was a very graceful and beautiful building, and a great ornament to the street. He subsequently erected an additional house on the east, covering the whole front of his lot, and also making radical changes in the original structure. On this lot of Mr. Sears, behind the old house, stood a barn, which was converted into a temporary hospital for the wounded British officers after the battle of Bunker Hill. When Mr. Sears was digging for the foundations of his house, the workmen came, at a depth of several feet under the surface, to a gigantic moccasined foot, perhaps $2\frac{1}{2}$ feet long, broken off at the ankle, and carved from a kind of a sandstone not found in this vicinity, which he presented to the Boston Athenæum, where it now is — *not*.

"Master Vinal" would doubtless be much gratified to find that his humble wooden house has attained to such high distinction in these later times. And even Mr. Copley would admit that the houses of Messrs. Sears, Parker, and Appleton have more than made good the two domiciles which are delineated in all the dignity of yellow paint, with doors, windows, and chimneys, on the original plan of the Mount Vernon Purchase (in Lib. 192). Except the old powder-house, we have seen that only these two houses appear on a plan of an estate containing a million of square feet, upon which now stand probably five hundred houses.

After Mr. Otis had sold his mansion house on Mt. Vernon street, he removed to an elegant and spacious house which he erected on Beacon street, next west of Mr. Sears's, and here he lived till his death. His lot was 120 feet front by 165 feet in depth. The easterly portion was a fine garden. Land at last became so valuable that he did not feel justified in retaining for a mere matter of sentiment this beautiful enclosure, which had long pleased all eyes, and decided to convert it to a more substantial use. He accordingly in 1831, sold the easterly part to Mr. Sears, for \$12,412.50

(L. 356, f. 227), who proceeded to erect a house, and on the west part Mr. Otis himself erected another. The bow of Mr. Otis's mansion house, which originally projected into the garden, still projects into this house; though this encroachment is ingeniously disposed of and concealed by its interior arrangements. When the houses were erected on this garden there was found what had the appearance of an old well, entirely filled up with beach sand. Its existence was before unknown. The foundations of the new buildings were constructed by arching it over. And perhaps, after many a year yet to come, it may again astonish the spectators. The mansion-house itself, after Mr. Otis's death, was conveyed to, and is now owned by Samuel Austin, by whom it has been thoroughly renovated. There is, perhaps, on the whole, no more desirable residence in Boston. Mr. Austin paid for it the sum of \$60,000.

There probably has never lived in Boston any individual with finer natural endowments than Mr. Otis. Possessing a noble presence, a beautifully modulated voice, great readiness and self-possession, and a cultivated intellect, he has rarely, if ever, been surpassed in the divine gift of eloquence. Nor was he less agreeable and fascinating in the intercourse of private life. His brilliant repartees, his graceful compliments, his elegant manners, made him as distinguished and successful in the social circle, as his talents and intelligence did at the bar and in all the business relations of a long and active life. A single anecdote will illustrate his instant readiness: a friend and his wife were one day approaching him in the street. The wife noticed some derangement of her husband's dress, and stopped to adjust it. As Mr. Otis reached them, she turned round, and, struck with the faultless neatness of his costume, exclaimed to her husband, "There, look at Mr. Otis's bosom." Mr. O. immediately bowed and said, "Madam, if your husband could look within this bosom, *he would die of jealousy.*" Had Mr. Otis been less absorbed with the care of his own concerns and interests, there was no honor in the gift of his fellow-citizens which they would not have bestowed upon him by acclamation.

He died in 1848, leaving three sons and one daughter. Several of his children had died during his lifetime, three of whom left issue. He had strong domestic affections, and the kindest feelings existed between him and those employed in his household. He rightly thought that that relation involved something more than mere service on the one side and wages on the other. I have heard

him spoken of with great regard by one who for many years was a frequent inmate of his dwelling, employed in labors of needle-work. In his last will is the following item: "I give to Deborah Hastings, my faithful nurse, two hundred dollars, and a suit of mourning at the discretion of," &c., "handsome, suitable for her condition in life, and not too extravagant." GLEANER.

LXXVI.

THE LOWELL FAMILY.*

December 14, 1855.

MR. EDITOR:—There is no name among us more entitled to honorable commemoration than that of Lowell. It has still one venerable living representative, — the survivor of a past generation, — Rev. Charles Lowell, D.D., who is father of the distinguished poet, James Russell Lowell, and of Mrs. Samuel R. Putnam, a lady as unaffected and pleasing as she is talented and learned. One of Dr. Lowell's brothers, the late Hon. John Lowell, was in early life at the head of the Suffolk Bar, and eventually the most distinguished agriculturist in New England. He was for many years a member of the Corporation of Harvard College, as his son John Amory Lowell is now. Another brother, the late Francis C. Lowell, devoted himself with the utmost enthusiasm to the establishment and development of our manufactures. A great city sprang into existence, the future emporium of this branch of our national industry, and, by adopting his name, has gratefully recognized him as its virtual founder.

I have alluded in a former article to the rapid rise in value of lands in Boston. The same remarks are even more strikingly applicable to lands in Lowell. A single farm of 100 acres was bargained for at the outset (1819–22) at from \$15 to \$20 per acre. Nine out of the ten owners conveyed accordingly. The tenth died, and in the delay of getting license to sell to raise enough to pay his debts, the $\frac{3}{4}$ of his $\frac{1}{10}$ sold, in 1824, for \$3,206.89. This sum paid all his debts, and a new license became necessary to sell for the benefit of his heirs, and their $\frac{1}{4}$ of $\frac{1}{10}$ was sold for \$4,742. When I was examining the titles in Lowell, in 1831, Mr. Kirk Boott informed me that this farm, without any improvements, could not be worth less than \$15,000 per acre, — or, in other words, that its value had increased, in ten years, from about \$1,500 to \$1,500,000, or a *thousand fold*.

* New title. — W. H. W.

I was employed to examine all the titles in Lowell, from the circumstance that an individual was engaged in trying to discover defects, and to extort money from the Corporation. I one day received a note from Mr. Boott, that this person pretended that a valid claim existed for the whole of this farm, because, when it was conveyed, in 1782, by Benjamin Melvin, and Joanna, his wife (L. 84, f. 277), she was a minor; that both husband and wife had lived till within the past few years, and therefore her heirs were not yet barred. It of course became of great importance to find out whether or not she was a minor in 1782. I knew that there was a large trunk full of papers in the Probate Office, which had never been recorded, *because the fees had not been paid*. I determined to examine every paper. In doing so I found her choice of a guardian in 1772, specifying her age to be then 15 years, which proved conclusively that she must have been 25 years old at the time of her conveyance. I procured a certified copy of this document, and there was no more trouble or alarm on that subject.

One very curious mistake of title I discovered and caused to be corrected, in regard to the valuable Hurd estate, then so called, since belonging to the Middlesex Company. It contained several acres, and was sold in 1827 for \$55,000. In 1822 it belonged wholly to Thomas Hurd. He conveyed to his brother William in 1822 (L. 248, f. 388), *one-half part of all my right, &c.*, in and to. These words were servilely copied in the two next deeds, each of which was intended to convey the *whole* interest of the grantor. Thus William, instead of selling $\frac{1}{2}$ sold $\frac{1}{4}$ to Joseph Hurd in 1824 (L. 268, f. 208), and Joseph reconveyed to Thomas in 1826 (L. 268, f. 236), only $\frac{1}{8}$ instead of the $\frac{1}{2}$ which he supposed that he was selling. Three-eighths of the whole land were thus left outstanding, merely from supposing that *moiety* had no meaning. I once met with a like curious defect in a title in Boston, caused by its being supposed to mean *any fractional share whatever*. A series of deeds conveyed one undivided *moiety or quarter part, &c.*, which, on the rule of construing a deed, in case of doubt, most strongly against the grantor, of course made him legally sell twice what he meant, and the later grantees were left in a forlorn and destitute condition. In L. 258, f. 233, of Suffolk Deeds will be found a case where a grantor sells *four moieties* of a parcel of land as being all that he owned himself, "and also all the right of my dearly beloved wife Abigail."

At the death of Francis C. Lowell, in the year 1817, he left four children,—a daughter, who married her cousin, John Amory

Lowell, and three sons. One of these was *John Lowell, Junior*. Possessing a considerable estate, he married a lady of large fortune, who died leaving him two children. He purchased a house in Beacon street, part of the Copley lot, as an investment on their account. A guardian is only permitted to invest in real estate under previous license of Court. This had not been obtained. A question was raised, therefore, as to the allowance of the account. Both the children died by sudden and severe disease within a few days, and the father, as heir of the survivors, became entitled to all the property which had been held in trust for his late wife. By his will, dated Nov. 8, 1832, he established that admirable foundation, *The Lowell Institute*. He never married again; but this document provides minutely for a *possible* wife and children, and, in default of any such immediate claimants, appropriates a moiety of all his estate to this public use. By a second codicil, dated April 1, 1835, "from the top of the palace of Louxor, in the French house at Thebes," he gives his final directions as to this Lecture-Fund Trust. The time-defying pyramids, by their massive grandeur, inspired Napoleon to address to his troops that stirring appeal which history will never allow to be forgotten. And the same associations perhaps led the American traveller to consummate, among the glorious remains of ancient Egypt, a cherished purpose, of which the effects will, perhaps, be as enduring as the monuments of the Pharaohs. May the ever increasing intelligence of the citizens of Boston, through coming generations, be the appropriate memorial of his wisdom and philanthropy!

I remember but one other will which states any peculiar circumstance attending its execution. The late Redford Webster, father of Professor Webster, appended to his signature, in 1832, the following: "With Mr. Eliot's bad pen in the dark shop." Notwithstanding this trivial remark, the testator was a person of superior intelligence.

Mr. Lowell's house has since his death become the property of his brother, Francis C. Lowell, who for several years ably presided over the Massachusetts Hospital Life Insurance Company, one of the largest of our moneyed institutions, and whose active services and ready aid have been freely rendered to the charitable establishments of our city. Their youngest brother, the late Edward Jackson Lowell, was a classmate of my own at Harvard College. None who had previously borne the name were purer in character, more brilliant in talents, or governed by higher impulses and

nobler views of life and duty. He died of consumption in 1829, one of the earliest taken and best beloved of our band of brothers."⁶⁸

GLEANER.

⁶⁸ So little has been printed concerning the Lowells, that the following genealogical items may be useful: Percival Lowell, of an old family in Worcestershire, Eng., came to Newbury in 1639, with a son John, who had also already a family. John, Jr., was father of Ebenezer Lowell, whose son was the Rev. John Lowell, of Newburyport, who died in 1767. The last-named was father of Judge John Lowell (b. 1743, d. 6 May 1802), who had three wives. By his first wife, Sarah Higginson, he had a son, John; by his second wife, Susan Cabot, he had Francis C.; by his third wife, Rebecca Russell, he had Rev. Charles Lowell.

Of these half-brothers, John married Rebecca Amory, and had John Amory Lowell (who died 31 Oct. 1881), whose sons are John Lowell, the distinguished judge of the U.S. Court, who has just quitted the bench, and Augustus Lowell. Francis Cabot Lowell married Hannah Jackson, and had John (founder of the Lowell Institute), Francis C. Jr., and Edward J. Rev. Charles Lowell married Harriet Spence, and had sons, Charles R., William K. T. S., Robert T. S., and James R. Lowell, now U.S. minister at the Court of St. James.

W. H. W.

LXXVII.

[THE SWAN FAMILY.]⁶⁶*December 18, 1855.*

⁶⁶The Record Commissioners have omitted this article from the present edition at the request of Mr. Bowditch's representatives, as certain expressions therein contained were found to be open to contradiction, and possibly would require explanation or retraction were the author living. A few matters of history may, however, be safely condensed into a note. The article treated mainly of the family of Col. James Swan and his wife, Mrs. Hepsibah C. Swan. Col. Swan was in Paris at the time of the French Revolution, and there published, in 1790, a book entitled "Causes qui se sont opposées aux progrès du Commerce entre la France et les Etats Unis de l'Amerique. . . . En six Lettres adressées à Monsieur le Marquis de la Fayette. Traduit sur le manuscrit Anglais du Colonel Swan, ancien Membre de la Législation de la République de Massachusset." This essay not only presents admirable statements on the feasibility of creating a vast commerce between these nations, but it shows the author to have been an ardent American, and a warm admirer of his native state. His plan touches many topics, and nothing is too trifling to be cited in support of his object. On one page he eulogizes spermaceti candles; on another he relates the foolish objections made in France to the introduction of labor-saving machines. He dwells with wonder on the fact that in France salted meats are practically prohibited, while he adds, "the people of the United States eat such meats twice a day, and you know, sir, that amongst us the men are as healthy and robust as they are anywhere."

He mentions that nearly every one in America wears English buttons called "Matthiewmans," made of white metal, and argues that a population of a million and a half will use annually 500,000 dozen, at a profit of 25,000 francs. Again, he prophesies that as, according to Dr. Franklin and Prof. Wigglesworth, our population will double in eighteen years, it will follow that in 1846 we shall have forty-nine millions of inhabitants and our imports will amount to about \$200,000,000. He speaks of the great invention of James Rumsey, of Virginia, whose steam-vessels will carry all foreign products to the centre of America through the rivers which flow to the west, and sees in it the hand of Providence which gives this boon at the moment when it will be so beneficial. A perusal of the volume will certainly give one a high opinion of the zeal and ability with which Col. Swan endeavored to advance American interests.

It seems that Mr. Swan engaged also in various enterprises in France, which proved unsuccessful, and that his creditors caused his detention for many years. It is said that they hoped thus to compel his wife to purchase his freedom, she having a large inherited fortune settled upon her before her marriage. It is also said that Col. Swan refused to allow any such ransom to be paid, and that he remained a nominal prisoner until his death in 1831, although the kindness of his relatives and friends made his sojourn as pleasant as possible.

Mrs. Swan occupied a house in Chestnut street, and also a beautiful summer residence in Dorchester. "In the garden of this latter mansion is still to be seen the

enclosure in which lies buried Gen. Henry Jackson, the original trustee who had charge of her property and affairs."

She had a son who died without issue; two daughters, married respectively to John C. Howard and William Sullivan: and a third daughter married successively to John T. Sargent and Rev. Dr. Richmond. Numerous descendants remain through these female lines. — W. H. W.

LXXVIII.

THE BEACON-STREET FIRE.

January 11, 1856.

MR. EDITOR : — On Wednesday, July 7th, 1824, just before two o'clock, the bells of Boston rang an alarm of fire, and instantly a dense mass of black smoke was seen to overhang the entire city. I have always been an amateur at fires. If the calamity must happen, I like to be present, to behold what sometimes proves to be a most magnificent spectacle. I was then a young man, — in my teens, — and hastening from 'Change to the corner of Park street, I saw at once that a most furious and destructive conflagration had commenced. The wind was blowing a hurricane from the north-west. When I reached the bottom of the Beacon-street Mall, a stream of fire was pouring through the passage-way west of Mr. Bryant's house, from carpenter shops and other combustible premises on Charles and Chestnut streets.

The flame was of the full width of the passage-way, and it was curling round into the front windows of Mr. B.'s house, which was then nearly finished and ready for occupancy. The out-buildings and fences of all that range of dwelling-houses were then of wood, so that the fire was also making its fearful approaches in the rear. I have never seen before or since, any similar occasion of a more appalling character. The hasty removal of household furniture, much of it being thrown from the windows, which were broken out for the purpose; the panic of the occupants, as they and their children were obliged to fly, some at a notice of a few minutes; the crackling of the flames, the intense heat, the falling of the walls of one dwelling-house after another, as the fire proceeded along the street; the shouts of the firemen; the mass of spectators filling the bottom of the Common and the rising ground in its centre, the jets of flame often springing over a space of several feet, the burning fragments borne aloft over our heads to remote parts of the city; the magnitude of the danger which led to the covering with wet blankets of houses even as distant as Mr. Otis's and Mr. Sears's, — formed together an aggregate of sights and sounds which can never be forgotten.

As those houses which at first were not thought in great danger, one after another, took fire and were consumed, owners who originally decided not to have their furniture moved were at last obliged to remove it so hastily that much was ruined, and much

more was necessarily left behind. In some instances old family portraits and inherited articles of furniture, rendered invaluable by the associations of a lifetime, were thus reluctantly surrendered. On the other hand a tin-kitchen was saved, and its viands cooking for dinner were protected from the danger of being overdone.

Extensive removals were made from several houses, which were eventually saved, as in the case of Mr. William Appleton's and others. The Common presented a curious medley of miscellaneous articles, the shabbiest household utensils side by side with elegant drawing-room carpets and ornaments. Bottles of wine which had not seen the light for twenty years were summarily decapitated without any ceremonious drawing of corks, and the Juno or Elipse vintage was probably never quaffed with greater relish than when it refreshed the parched throats of the exhausted firemen. Other amateurs, without having their apology, imitated their example, and the scene assumed rather a bacchanalian character. One gentleman, desirous of withholding further fuel from this conflagration, locked up his wine-cellar, and left its contents to be at least harmlessly consumed.

Seven dwelling-houses on Beacon street, east of the passage-way, were burnt, besides the entire range of buildings between the passage-way and Charles street. The fire was at last successfully checked at the house of the late Mr. Eckley. I suppose that it always happens that in a large fire somebody's policy has *just expired*. This was, I believe, the case with the late Mr. Henry G. Rice. To many besides him that was a very sad and discouraging day. Mr. Bryant had the advantage over his neighbors of not being incommoded by any furniture or family, as he had not yet taken possession. It is satisfactory to reflect that all the pecuniary loss then sustained has, undoubtedly, been much more than made good by the greatly enhanced value of real estate in that vicinity. And, independently of all the direct and perpetual advantages, of the most inestimable character, derived by our citizens from the Boston Common, it should never be forgotten that it was solely owing to the existence of this open space on this occasion that the entire southern portion of our city was not destroyed. The range of trees at the foot of the Beacon-street Mall rendered a truly important service. Suffering the flames of martyrdom, they died at their post of duty.

A burning cinder lodged in my eye, causing a violent inflammation, and bringing to an abrupt close my meditations, on this striking spectacle, and a like inflammation of the same organ now brings to a like abrupt close the speculations of

GLEANER.

EDITORIAL NOTE.*

The closing lines of the last article may be classed among involuntary prophecies; for this proved to be the real close of this amusing and instructive series of notes. On January 4, 1856, Mr. Bowditch had printed an article relating to Benjamin Joy, and especially noticing his sale of land to the McLean Asylum in Somerville. Certain expressions therein called forth a sharp letter from Mr. John B. Joy, a son of the gentleman criticised. Mr. Bowditch in reply disclaimed any intention to reflect upon the family, and was again assailed by Mr. Joy. This brought forth an answer, and then a last retort from Mr. Joy. It has not seemed best to reprint any part of this controversy.

Unfortunately this trivial dispute seems to have entirely quenched Mr. Bowditch's willingness to continue his work, and the articles came to an abrupt conclusion. It will always remain a source of regret that the public was thus deprived of further information upon our local antiquities from one so competent to communicate it.

W. H. W.

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